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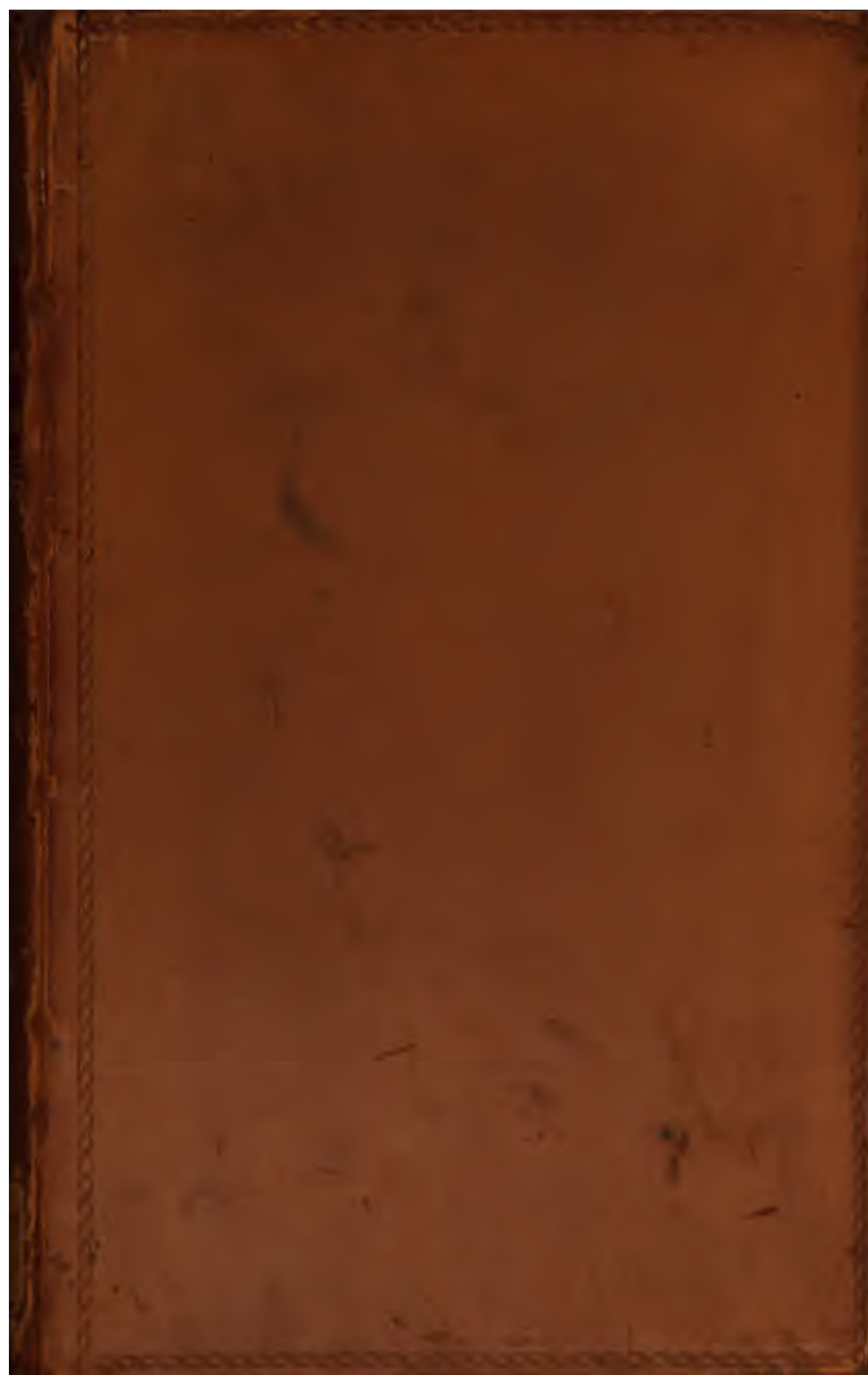
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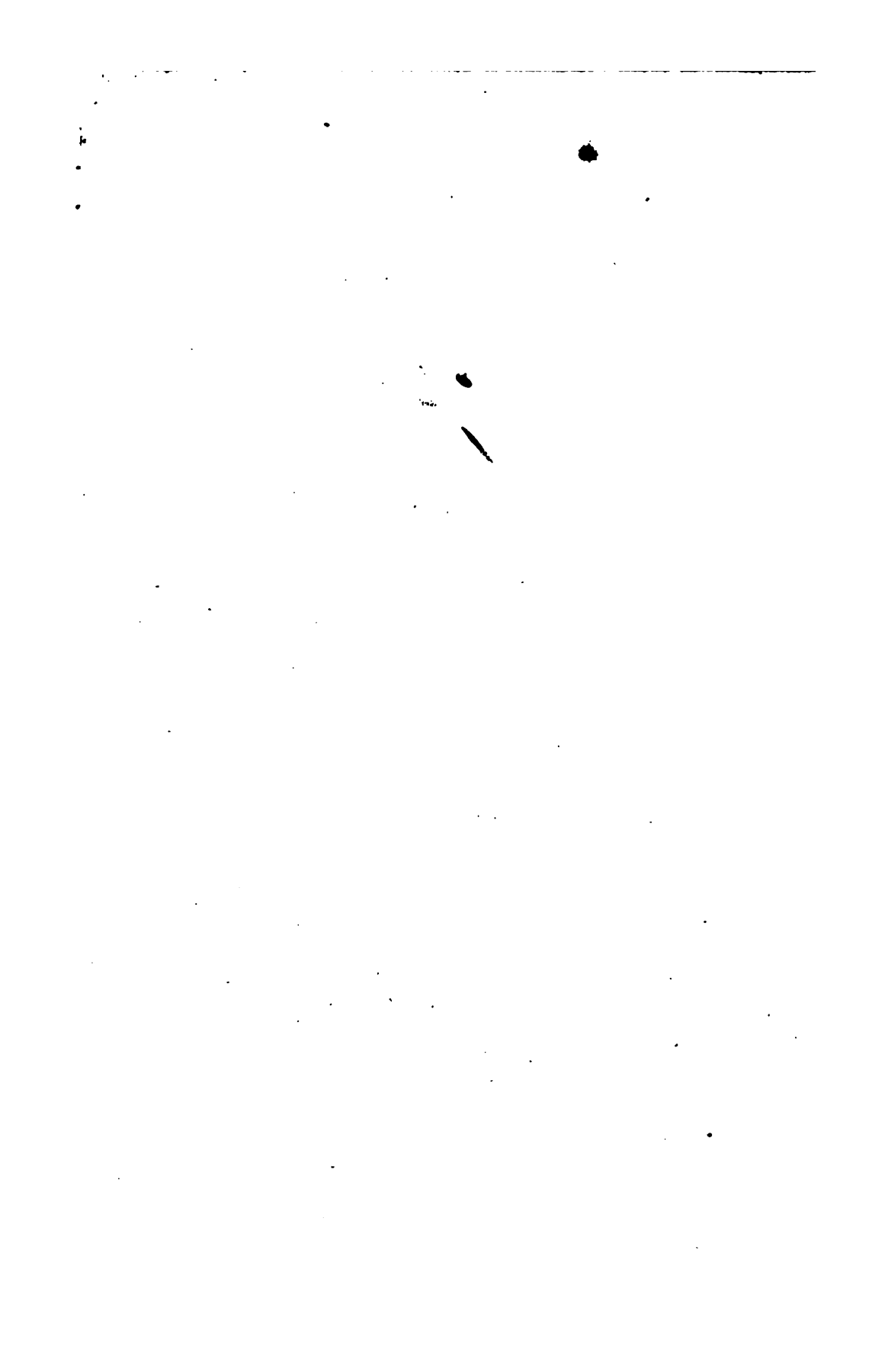
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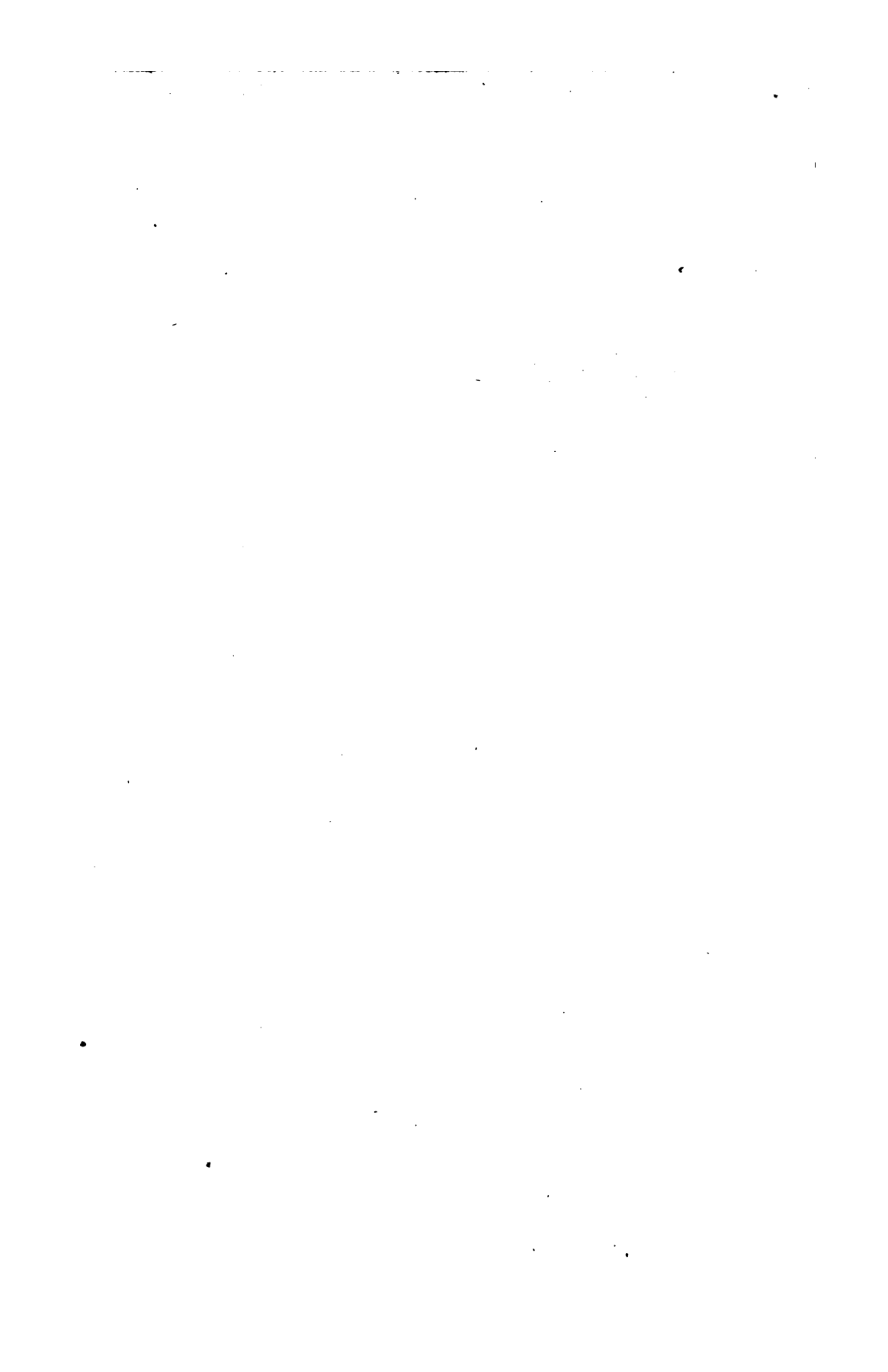
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THE  
PRACTICE  
ON THE  
PLEA SIDE  
OF  
**The Court of Exchequer.**

**Printed by W. H. Cox, 5, Great Queen Street, Lincoln's Inn Fields.**

THE  
**PRACTICE**  
ON THE  
PLEA SIDE  
OF  
**The Court of Exchequer.**

TO WHICH IS ADDED  
**AN APPENDIX,**  
CONTAINING  
THE RECENT ACTS OF PARLIAMENT, AND NEW RULES OF COURT;  
ALSO THE FORMS OF WRITS AND PROCEEDINGS  
IN GENERAL USE,  
AND  
A TABLE OF COSTS  
AS AT PRESENT ALLOWED ON TAXATION.

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**By THOMAS DAX, Esq.**

A MASTER AND PROTHONOTARY OF THE SAID COURT.

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**SECOND EDITION.**

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**LONDON:**  
**J. & W. T. CLARKE,**  
*LAW BOOKSELLERS AND PUBLISHERS,*  
PORTUGAL STREET, LINCOLN'S INN.

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1833.



TO THE  
RIGHT HONOURABLE  
LORD LYNTHURST,  
LORD CHIEF BARON  
OF HIS MAJESTY'S COURT  
OF  
EXCHEQUER,  
THIS WORK

IS, BY PERMISSION, MOST GRATEFULLY AND RESPECTFULLY  
INSCRIBED

BY

HIS LORDSHIP'S

MOST OBEDIENT,

AND VERY HUMBLE SERVANT,

THE AUTHOR.



## ADVERTISEMENT

TO

THE SECOND EDITION.

---

SINCE the publication of the first Edition of this work so many Acts of Parliament have been passed, and Rules of Court made, that it has become in a great measure obsolete; and notwithstanding the very able, correct, and copious additions made by Mr. Tidd to his invaluable Book of Practice, it has been a subject of complaint in the profession, that there is no work at present in existence that will give, at one connected view, the information necessary to the Practitioners in this Court. At the request, therefore, of numerous Members of the Profession, and flattered by the



viii    *Advertisement to the Second Edition.*

great encouragement given to the former edition, the Author has again ventured to appear before the public, in the hope, at least, that this work will be more generally useful than the first.

It is intended to publish the Practice in two Parts: the first contains preliminary information, and the commencement of actions. Also, the several Acts of Parliament lately passed, and the Rules of Court, with the decisions thereon down to the present period; to which is added an Appendix of Forms necessary for the first Part; and a Table of Costs, as altered to the present rule of allowance, with an Index.

The second Part will be published as soon as possible, and will contain the remainder of the Practice, and Practical Forms; and to which will also be added an Index to the whole Work. The two Parts will be so printed that they may be bound up in one continuous volume.

*Advertisement to the Second Edition.* ix

The Author cannot refrain from expressing his obligations for the great assistance he has received from his old and valued friend, Mr. Blick, of the Middle Temple.

35, Bedford Place,  
10th Jan. 1838.



## ADVERTISEMENT

TO

THE FIRST EDITION.

---

A CONSIDERABLE number of attornies having lately been admitted on the Plea Side of the Court of Exchequer, and the practice thereof altered by the recent Act of Parliament and Rules of Court, and the same not being generally known, the author (having been repeatedly applied to for information), considered it might be useful to the profession to publish a work, which would, as concisely as possible, give a general view of such practice.

The object being to explain such parts as are peculiar to this Court, the Author has conceived it unnecessary to do so at full length, where it is similar to that of the other Courts

xii     *Advertisement to the First Edition.*

of Common Law, or where it has been uniform for a great length of time; as by so doing he must have greatly increased the bulk of the work, and consequently rendered it more expensive. Being of necessity compiled with much haste, he trusts it will be received with indulgence.

The Author thinks it right to add, if it should be objected that the whole of the Act of Parliament need not have been printed in the Appendix, and that some of the very common forms might not be required by London practitioners, that with respect to the first, two-thirds of the Act being directly applicable to this work, it was thought better to give it entire; and, with respect to the second, although extremely desirous of leaving out every thing that could possibly be considered superfluous, yet it having been represented to him that as this work would, in all probability be required in a part of the country, where the practice and forms of this Court are but little known, it would be necessary to retain them. The Author has forborne giving the longer and

*Advertisement to the First Edition.*    xiii

more special forms, as they are the least wanted in the country ; and practitioners in London may always obtain them, from those very excellent and accurate works already published by Mr. Tidd and Mr. Archbold.

The Author intended to have given a general view of the statutes, rules, and decisions relating to costs ; but having been much pressed for the immediate publication of the work, he has been reluctantly compelled, for the present, to defer it.

Six weeks have scarcely elapsed since the commencement of the work, and its utility would in some measure have been defeated, had it not been published by the first day of *Hilary* Term.

35, Bedford Place,  
10th Jan. 1831.



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THE  
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EXCHEQUER OF PLEAS.

---

PART THE FIRST.

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BOOK I.

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CHANCELLOR AND BARONS OF THE EXCHEQUER.

*Chancellor.*

The Right Honourable VISCOUNT ALTHORP.

*Barons.*

The Right Honourable JOHN SINGLETON LORD LYND-  
HURST, LORD CHIEF BARON, 6, *Hyde Park Ter-  
race.*

Sir JOHN BAYLEY, Knight, 41, *Bedford Square.*

Sir JOHN VAUGHAN, Knight, 9, *Langham Place.*

Sir WILLIAM BOLLAND, Knight, 4, *Adelphi Terrace.*

Sir JOHN GURNEY, Knight, 34, *Lincoln's-Inn-Fields.*

## OFFICERS OF THE COURT.

---

**WILLIAM STEWART ROSE, Esq.** Clerk of the Pleas.

**THOMAS DAX, Esq.**

**KENRICK COLLETT, Esq.**

**EDMUND WALKER, Esq.**

}

Masters and Prothonotaries.

Mr. Stannard . Chief Clerk.

Mr. Heckford . Clerk for the Signing  
of Writs.

**STEPHEN RICHARDS, Esq.** . . Clerk of the Rules.

Mr. Hughes . . Chief Clerk.

**GEORGE CHILTON, Esq.** . . Filazer and Clerk of  
the Outlawries.

Mr. Perry . . Chief Clerk.

**THOMAS DAX, Esq.** . . . Clerk of the Errors.

**WILLIAM HENRY WALTON, Esq.** Marshal.

Mr. Burman . . Bag Bearer.

Mr. Woodroffe . Tipstaff.

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Officers  
regulated by  
Statute 2 and  
3 Will. 4, c.  
110.

The Officers on the plea side of the court, and their several duties, were regulated by the statute of the 2d and 3d of Will. 4, c. 110.

Appointment  
of Clerk of  
the Pleas.

The power of appointment of the clerk of the pleas was formerly in the Chancellor of the Exchequer: afterwards it was by statute given to the Lords of the Treasury; but by the act above mentioned, the office when-

Office  
abolished.

ever it may again become vacant, is abolished. During the lifetime however of the present clerk of the pleas, or so long as he shall hold that office, he is to have the appointment of the three masters, or prothonotaries, who are appointed *quam diu se bene gesserint*; but upon the office of the clerk of the pleas being abolished, they are to be in the appointment, (as vacancies occur), of the Lord Chief Baron for the time being. The offices of the clerk of the rules, and filazer, are in the appointment of the Lord Chief Baron. The assistants and clerks to the principal officers, are appointed by the principal officers, and they are answerable for such clerks and assistants.

Appointment  
of Masters.

Clerk of the  
Rules and  
Filazer.

It should be observed, that the statute above mentioned, <sup>Fees.</sup> does not interfere with the fees of the officers; the same fees are still payable in the course of the proceedings; but some fees which, were formerly payable to one officer, are transferred to another. The fees formerly payable to the sworn clerks, are now payable to the clerk of the rules, or the filazer; and some fees payable to the master, are now received by the clerk of the rules, or the filazer, on account of the masters, where such fees were payable in respect of matters and duties, partly executed by the master, and partly by the sworn clerk: this is done to avoid giving trouble to suitors or their attornies, who would otherwise have to split the fees, and pay part thereof to one officer, and part to another. The fees are in no other respect altered, except where alterations have been made by act of parliament, or rule of court.

THE  
D U T I E S  
OF THE  
OFFICERS OF THE COURT.

---

THE CLERK OF THE PLEAS.

Duties of the  
Officers.

Clerk of the  
Pleas.

It is the duty of the clerk of the pleas to provide proper offices, wherein all the business of the court, (out of court) is to be transacted. His name is used in the signing of mesne process, and also affixed to rules of court and other proceedings: his other duties are performed by the other officers of the court.

MASTERS AND PROTHONOTARIES.

Masters and  
Prothonotaries.

The duties of the masters and prothonotaries are very multifarious.

They attend in the Court of Exchequer at Westminster, daily in term time, and are to answer the court, when referred to, on any matters of practice.

They also sign all original, mesne, and judicial process, issuing out of the office of pleas, examine and file the præcipes for writs, affidavits, and judges' orders, and enter præcipes for writs in books kept for that purpose; they take affidavits to hold to bail, and affidavits of service and of mesne process.

They are required also to sign judgments, as well interlocutory, as final; to docket final judgments in proper books kept for that purpose, and to acknowledge and enter satisfaction of judgments, and to give certificates for registering memorials thereof, if required; to enter all original process; to enrol all deeds, recognizances, and other matters required to be enrolled, and to certify the enrollment thereof, and to sign and pass records of *nisi prius*, and records sent by *mittimus* for trial in counties palatine; to sign exemplifications of records; to mark rolls as read, or supposed to be read in court; to tax all bills of costs relating to suits in the office of pleas; to strike special juries in suits on the plea side of the court; and to examine all proceedings referred to them by the court, and to report on the same. Also, to take charge of all title deeds, and original or other instruments committed to their charge; to keep in safe custody, all books, in which any entries are made of matters within their cognizance, and deliver out the same for searches, &c. Their further duty is, to examine witnesses on interrogatories, or otherwise, pursuant to the statute, or rules of court, or orders of the Barons.

They also receive all monies paid into court, and pay out the same.

The masters also prepare, take charge of, and call over the new trial, and special papers; prepare copies thereof for the Barons, and enter all minutes of rules relating thereto.

They also attend trials at bar, call on the same, and read the written evidence, documents, and exhibits, given in evidence; they also swear the witnesses, and, in general, do such acts as are usually done by the marshal, and associate in common cases at *nisi prius*.

It is also their duty, to administer the oaths to attornies admitted in this court, and to enrol their names in a book kept for that purpose ; to enrol annual certificates of attornies, who wish to have them enrolled in this court ; and to enrol the admissions of attornies, admitted to practise, in either of the late courts of Great Session, in the principality of Wales.

## CLERK OF THE ERRORS.

Clerk of the  
Errors.

The senior master is also, by virtue of his office, clerk of the errors ; and it is his duty to enrol and make minutes of all writs of error brought upon judgments of the Court of Exchequer, returnable in the Exchequer Chamber ; whether in suits originally depending in the office of pleas, or in suits depending in the offices of the King's Remembrancer, or Lord Treasurer's Remembrancer ; to prepare, examine, and sign the transcript of the record ; to receive and file all assignments of error, and joinders in same ; to prepare papers of the causes in error, and to deliver lists of such causes to the Lord Chief Justices of the King's Bench, and Common Pleas, and the other judges of the Courts of King's Bench, and Common Pleas, a convenient time before the day appointed for the sitting of the court of error, called the error day ; to attend the court of error in the Exchequer Chamber, on the error days, and to call over such list of causes, and take minutes of the proceedings, as also minutes of the judgments, and to draw up rules made thereupon. And if after judgment in the Exchequer Chamber, a writ of error be issued returnable in parliament, it is the duty of this officer, to examine and sign the transcript of the record, and to carry up and

*Filazer and Clerk of the Outlawries.* 7

deliver the same to the Lord Chief Baron, at the door of the House of Lords. It is now also the duty of this officer to tax and allow all costs of proceedings in error, and for which his allocatur is sufficient (a).

CLERK OF THE RULES.

The duties of the clerk of the rules are, to attend the court in term time, and take minutes of the rules, and orders made by the court, and to draw up, and deliver out the same; to file and make office copies of all petitions, affidavits, and such other documents, as are filed by him.

Clerk of the Rules.

To draw, and engross, all assignments of the estate, and effects of prisoners, discharged by the court.

To record, in a book kept by him for that purpose, all rules issued by him, and to make out all day rules for prisoners, in the custody of the Warden of the Fleet, in respect of proceedings in this court.

FILAZER AND CLERK OF THE OUTLAWRIES.

It is the duty of the filazer to attend the court in term time, and to read all records, affidavits, petitions, or other documents produced, on motions, complaints, or other applications; also to file all writs and returns to writs; to enter and record appearances, and special bail; to call the bail who are required to justify in court, and to take minutes thereof; also to produce bail pieces in court, when required so to do; to file and make copies of all affidavits, and other matters of record, not filed with the masters or the clerk of the rules.

Filazer and Clerk of the Outlawries.

(a) R. G. M. T. 2 Will. IV.



It is also this officer's duty, to grant certificates, and orders for the discharge of prisoners, out of the custody of the Warden of the Fleet, under special rules of court, or on perfecting bail. To take affidavits of the service of writs ; to make out certificates to the warden, of the entry of common appearances, in cases where prisoners are to be discharged by rule of court, or judge's orders, and to enter and record appearances, and file the rules, or orders annexed, in cases, where prisoners are discharged by supersedeas, out of custody of the sheriff, or gaoler, for want of prosecution ; to receive, and file all writs, returned into court ; and to receive and file, all declarations required to be filed, and deliver out the same.

It is also the duty of this officer, to execute the duties of exigenter, and clerk of the outlawries (*b*).

#### MARSHAL AND ASSOCIATE.

**Marshal and Associate.** The offices of marshal and associate, are almost always held by the same person, though it has sometimes been otherwise.

**Marshal.** The duties of the marshal are to attend the court during the sittings at *nisi prius* in London and Middlesex ; to enter the causes for trial in a book kept for that purpose, to make abstracts of the pleadings from the *nisi prius* records for the use of the judge. It is the

**Associate.** duty of the associate to call over the names of the jurors in each cause : also to mark on the pannel, the names of the jurors, as they appear and are sworn, and to record the default of those who do not appear.

**Associate.** It is also the duty of the associate, to read to the court,

(*b*) 2 Will. IV. c. 39, s. 7.

all exhibits, and written documents required to be read at *nisi prius*; to take minutes of proceedings, and orders at *nisi prius*, and to draw up and deliver out the same to the parties; to enter minutes of the verdicts, and to draw, and engross the *postea*s. The latter duty, in strictness, belongs to this officer, though in this court, for the sake of expedition, it is usually done by the attorney. It is also the duty of the associate to indorse on the record, any certificate requiring the signature of the judge.

**BAG BEARER.**

The duties of the bag bearer are, to attend the court Bag Bearer. at Westminster every day the court sits in term, with the bag containing the books, documents, and records of the office of pleas in common use; he also attends the court when required, with any particular record, or document, not usually put into the bag; he also attends the chambers of a baron with the file of bails when required; he also attends the Court of Exchequer, at its sittings out of term, as well as other courts, for the purpose (when called upon) of producing official documents.

The bag bearer obtains the seal of the court to writs, commissions, records of *nisi prius*, and exemplifications issued out of the office of pleas; and he is entrusted by the master with the Chancellor of the Exchequer's seal, for the purpose of sealing executions.

All writs, &c., used in the office of pleas, may be writs. obtained of the bag bearer, at the Exchequer Office.

## OTHER OFFICERS OF THE COURT.

Inferior  
Officers.

There are other officers of the court, such as the sealer of the writs, the tipstaff, crier, ushers, &c.; but their duties are so well known, and are of such a nature, as not to require any particular description.

## EXCHEQUER OFFICE OF PLEAS.

Exchequer  
Office.

The Exchequer Office is situate at No. 9, Old Square, Lincoln's Inn, where the whole business of the masters, clerk of the rules, and filazer's offices is transacted.

Office Hours.

The office hours are from 11 o'clock in the morning till 3 in the afternoon; and from 6 o'clock in the afternoon till 9 o'clock at night, during term; and for one week after term; and at other times from 11 o'clock in the morning till 4 o'clock in the afternoon. Writs may be issued, and proceedings taken on any day, except Sundays, Christmas Day, and Good Friday.

## HOLIDAYS.

Holidays.

The holidays are as follow:—Christmas Day, Good Friday, Easter Eve, Easter Monday and Tuesday, Ascension Day, Midsummer Day, and days appointed for public feasts, thanksgiving, or fasts.

## BUSINESS IN COURT.

Business in  
Court.

The court sit every day in full term, Sundays excepted.

Sitting by  
one Baron.

It is usual for one of the barons to come into court at

10 o'clock precisely, to take common matters, such as swearing in attornies, justifications of bail, and common motions of course, and they are taken in that order. When they are disposed of, the full court sit to take the special matters. The court first call upon the counsel, filling the office of postman (at present Sir William Owen), and afterwards, on the tubman (Mr. John Jervis), and then the other counsel are called upon, in the usual order.

Sitting of  
the full  
Court.

There are two special paper days in the week, *viz.* Paper Days. Mondays and Wednesdays. The paper is called over immediately on the sitting of the full court. It sometimes happens, on account of the Chief Baron sitting in equity, that these days are altered, in which case, due notice is given, by fixing up the same in the Court of Exchequer at Westminster, and in the Exchequer Office of Pleas. The court, if there is time afterwards, proceeds on motions.

The new trial paper is taken every day in term, when the court has gone through the bar, provided there be then sufficient time; the court is strict in taking the causes in the order in which they are set down in the different papers; and if the parties are not present or ready, or some very sufficient reason given, the same are struck out. It is very necessary that this regulation should be strictly observed, to prevent delay, and an accumulation and arrear of business; and notwithstanding the great increase in the business of this court, this regularity has hitherto prevented any arrear of moment.

Nisi Prius  
Sittings.

The sitting days at *nisi prius*, both in term, and after term, are fixed previously to the term, and printed papers and due notice thereof published; there are usually two days in each term, appointed for sittings in

London, and two days in Middlesex, and which sittings, when necessary, are sometimes adjourned to the day following. This has been considered more convenient to suitors, than naming more days in the term at intervening periods, as it prevents in many cases the keeping of the witnesses in town.

Rules for  
new trials  
enlarged.

The rules for new trials, if not disposed of within the term in which they are moved, are considered as enlarged to the ensuing term, and so on to the term following, and until disposed of.

Enlargement  
of Rules of  
Court.

If a party against whom a rule to show cause is granted, applies to enlarge the same, it is usually on the terms of filing his affidavits a reasonable time before showing cause, and the rule, if enlarged until the ensuing term, is drawn up as a matter of course, on condition, that the affidavits are filed, a week before the term.

Time for  
showing  
cause.

The time for showing cause against a rule of court, (except it be a rule, "*nisi*," ) is the day after the day mentioned in the rule (c): the time, however, may be enlarged on application to the court, without notice to the opposite party, if the court think fit to enlarge it (d). Upon a rule "*nisi*," the day for showing cause is the day mentioned in the rule.

Last day of  
Term.

On the last day of term, the special and new trial papers are seldom, if ever, called on, nor are motions in respect of awards heard; nor motions for attachment, except for non-payment of costs pursuant to the master's *allocatur*: nor will any rule to show cause, obtained on that day, operate as a stay of proceeding, whether notice of motion be given or not. Nor will the court grant any

(c) *Solomon v. Cohen*, 9 Price, 388.

(d) R. G. H. T. 2 Will. IV.

rule calling upon an attorney to answer the matters of an affidavit, nor for the master's report, on the examination of a party upon interrogatories, unless with the leave of the court, granted under very special circumstances.

There appear to be cases in which it would seem, that <sup>Sheriff.</sup> motions cannot be made against the sheriff on the last day of term, for not returning a writ, or not bringing in the body of the defendant, pursuant to rules for that purpose, but in fact, such motions are constantly made, and rules granted (e); generally, the practice in such matters should be considered similar to the practice in the other courts.

In this court, it is very usual in cases, wherein the court <sup>Rules</sup> conceive it would be too much to grant a rule absolute in the first instance, and yet where it appears advisable, to save expense to parties, to grant a rule "nisi" (that is to say, "unless cause be shown") on a certain day; if no cause be shown on that day, the rule makes itself absolute, and the party cannot afterwards show cause against it; if cause is intended to be shown, notice must be given to the attorney, concerned in making the motion, a convenient time, before the day mentioned in the rule, that he may be prepared to instruct his counsel, to make the rule absolute. This is an extremely useful, and convenient rule, and very frequently saves considerable expense.

The Fleet prison is the prison of this court. <sup>Fleet Prison.</sup> The prison doors are closed at 10 o'clock at night, and cannot be opened after that time, except for the purpose of receiving a new prisoner.

(e) *Rex v. Sheriff of Midd.* 8 T. R. 464. 11 East 591. 1 B. & P. 312.

## TERMS.

- Terms.** Hilary Term begins 11th January, ends 31st January, contains 21 days.  
Easter Term begins 15th April, ends 8th May, contains 24 days.  
Trinity Term begins 22nd May, ends 12th June, contains 22 days.  
Michaelmas Term begins 2nd November, ends 25th November, contains 24 days.

Except, where the last day of term happens on a Sunday, in which case, the last day will be the Monday following: and except, where Easter may fall within the term, in which case, Easter term is prolonged three days, and Trinity term is postponed for three days, and ends three days later.

## BOOK II.

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ALL persons (not legally disqualified) may sue in this court, either in person, or by attorney, and need not now be described as debtors to the king (*a*), &c.

Persons entitled to sue in the Exchequer.

### PRIVILEGE.

Until the passing of the act of 2nd Will. 4th, c. 39, many persons, such as the officers on the several sides of the court, accountants to the king, &c., could only be sued in this court by bill, and might sue by *capias* of privilege (*b*): they might arrest attornies of the other courts for debt; they were entitled to lay and retain the venue in Middlesex (*c*); and it was said, were entitled to a trial at bar (*d*): and there are many authorities to show, that the same privilege, to which the officers of the court were entitled, were also conferred on their wives, and servants (*e*): but by that act, such distinctions (at least, in respect of the *commencement* of proceedings), have been abolished. The act, however, does not deprive them of the privilege of freedom from arrest; they must therefore now sue, or be sued, by serviceable process only, *viz.* the writ of summons. A question however arises, whether, as in point of form they cannot sue as privileged persons, they cannot do so in effect: this is a

Privilege. Officers and Accountants

Privilege abolished Stat. 2 Will. 4, 39.

Except freedom from Arrest.

Q. As to their other privileges.

- (*a*) Stat. 2 Will. IV. c. 39. Hurst v. Pitt, MS. H. T. 3 Will. IV. (c) Pope v. Redfearne, 4 Burr. 2027 Yardley v. Roe, 3 T. R. 573. Y. & J. 199. Walker, gt. v. Rush- (d) Astrey's case, 2 Salk, 651. bury, gt. 9 Price 16. Elkins v. Hard- (e) See sev. auth. 1 Buck, 48.



Officers of  
other Courts.  
Attornies.

Doubts as to  
their being  
abolished.

matter of some moment, and in some measure applies to officers of the other superior courts ; and it also applies to the proceedings by, and against attornies, in all the courts.

On the one hand, it is considered, that as in point of form, so in substance, it abolishes the privileges before alluded to : on the other hand, it is contended, that no person's rights can be taken away by an act of parliament, unless the same be abolished in express terms ; and in this act there are no express terms to that effect : but as the liability of an officer, or attorney, to be sued in any other court, than that of which he is a member, could only legally be raised by a plea in abatement ; and as such a plea, must necessarily contain an allegation respecting the immemorial usage, on which the right of privilege is founded, and which allegation cannot now be true in point of fact ; at least, as far as relates to the " Bill to be exhibited, &c." it appears doubtful, whether the right of such persons, to be sued in their own court, can now be supported. It may be different however, as to the right to lay and retain the venue in Middlesex, or to a trial at bar ; such matters being determined by motion, and consequently in the discretion of the court. The question does not yet appear to have been raised, and determined, in either of the courts.

Other  
persons  
privileged  
from arrest.

There are many other persons, also privileged from arrest, either permanently, or temporarily, *viz.* :

#### THE ROYAL FAMILY (f).

The SERVANTS in ordinary and menial servants of the

**KING or QUEEN REGNANT** (*g*), but not the servants of a  
**QUEEN CONSORT, or QUEEN DOWAGER** (*h*).

**PEERS of the Realm.**

**PEERS and PEERESSES of SCOTLAND** (*i*).

**PEERS and PEERESSES of IRELAND** (*k*).

**PEERESSES by birth** (*l*).

**PEERESSES by marriage**, unless they afterwards marry  
commoners (*m*).

**BISHOPS.**

**MEMBERS of the HOUSE of COMMONS** (*n*).

**AMBASSADORS** and their domestic servants (*o*).

**OFFICERS of the several courts of justice**, and **ATTORNEYS** (*p*).

**MARSHAL of the King's Bench**, and

**WARDEN of the Fleet** (*q*).

**CLERGYMEN**, performing divine service, and going to  
and returning from such service (*r*).

**The LORD MAYOR of London** (*s*).

**WITNESSES** subpoenaed, and attending courts of justice  
to give evidence, (*t*) and persons attending any court of  
record on business, or summoned before commissioners  
of bankrupt, or other commissioners under the Great  
Seal (*u*), or on arbitrations pursuant to rules of court (*w*).

(*g*) 2 Keb. 3, 485. T. Ray, 152. (*o*) 7 Ann. c. 12. 3 Wils. 33.  
5 T. R. 686. 3 T. R. 735. 2 B. & 3 Burr, 1480.

A. 234. 1 B. & C. 130. 1 D. & R. (*p*) 4 Inst. 71. 2 Inst. 551. 12  
89. 2 D. & R. 250. Mod. 163.

(*h*) 1 Keb. 842, 877.

(*q*) 1 Vent. 65.

(*i*) 5 Ann. c. 8.

(*r*) 50 Edw. III. c. 3, 1. R. 2, c.

(*k*) 39 & 40 Geo. III. c. 67.

15.

(*l*) 1 Inst. 131. 2. Inst. 50. 4

(*s*) 1 Burt. 113.

Barnes, 128.

(*t*) Sir T. Ray, 101. 1 Vent. 11.

(*m*) Co. Lit. 16. 2 Inst. 50. 7 Co.

(*u*) 1 Atk. 54.

15, 16. Dy. 70.

(*w*) 8 T. R. 536. Spence v.

(*n*) 10 Geo. III. c. 50.

Stuart, 3. East. 89. 8 T. R. 475,  
534. 2 Esp. ca. 40, 117.

**BANKRUPTS** during their protection (*x*).

**PERSONS** being **PARTIES** in a cause in their own right attending during the trial, and for a convenient time for going thereto and returning therefrom (*y*).

#### ATTORNIES.

Attornies of  
the other su-  
perior Courts  
admitted  
in the  
Exchequer.

All attornies admitted, or admissible, in either of the other superior common law courts, or who may have been admitted to practise in any of the courts of Great Sessions in the Principality of Wales, may be admitted to practise in this court, without the intervention, as formerly of a clerk in court (*z*).

Fiat.

When an attorney has been admitted in either of the other courts at Westminster, and is desirous of being admitted in this court, it is necessary he should apply to a baron for a fiat for that purpose; this is obtained by producing his admission to practise as an attorney in either of the other courts. This fiat and admission must be taken to the masters' chief clerk, the day before the day of admission, together with an affidavit or affirmation, stating the payment of the duty on the articles; also the names and description of the parties to such articles; when they were enrolled; and in what court; and when the attorney was admitted; and if there has been any assignment of the articles, the names and description of the parties, and the time of enrollment thereof must also be stated: and the applicant must also state, that he still continues on the roll of attornies of the court in which he was previously admitted. The attorney's name is put in the list for the following morning, and he may

Affidavit of  
payment of  
Duty.

(*x*) 5 Geo. II. c. 30.

Bl. 1142. 1 Atk. 55.

(*y*) *Lightfoot v. Cameron*. 2 Bl.

(*z*) 1 Will. IV. c. 70, s. 10.

R. 1113. *Meekings v. Smith*. 1 H.

then be admitted and sworn in at the sitting of the court in term time. It has been doubted whether it is necessary to state all these particulars in the affidavit (a), and though the court was desirous of dispensing with them it was on reference to the act of parliament found to be imperative (b) (*the form of the affidavit, fiat, and admission, will be found in the Appendix*), as the court sits punctually at 10 o'clock, the attorney should be in court some short time previously.

Attornies admitted in the late courts of Great Sessions in the Principality of Wales, may have their admissions enrolled in this court, on payment of one shilling, and may thereupon practise in the Principality; but such practice is confined to the Principality. It is only necessary to produce their admission at the Exchequer Office (with an affidavit verifying the same), where the master enters their names in a book kept for that purpose. Upon payment of the further sum required by the act of parliament they may be admitted in like manner as other attornies to practise generally in the courts of common law at Westminster (c).

Attorney of  
Courts of  
Great  
Sessions.

An attorney, however, admitted to practise in the courts of Great Sessions must actually have practised therein before the passing of the act, to entitle him to be admitted of this court, and his affidavit on applying to be admitted must state that fact (d); and it seems that if he has ceased to take out a certificate, before the passing of the act, he cannot be enrolled in any of the superior courts, and though enrolled is not free from arrest (e). Clerks who have been articked to Welch attornies, and who have paid

Must actually  
have  
practised.

(a) Price's Prac. 27.

(d) Ex parte Read. 1 B. & A. 957.

(b) Stat. 2 Geo. II. c. 23.

(e) Chap. P. 87.

(c) 1 Will. IV. c. 70, s. 17.

the higher duty, may be admitted in the superior courts; but this does not extend to clerks who have paid the lesser duty, and whose articles may not have expired within six months from the passing of the act. The latter persons must pay the remainder of the higher duty before they can be admitted (*f*).

**Certificates.** The annual certificates of attornies admitted in this court *may* be entered and registered by the masters of this court.

**Entry of  
Attornies'  
name in a  
book at the  
Exchequer.**

Every attorney admitted, or hereafter to be admitted, residing within ten miles of London, and practising in this court, must enter in a book to be kept at the Exchequer Office for that purpose, his name, and place of abode, or some other proper place in London, Westminster, or the Borough of Southwark, or within one mile of the said office, where he may be served with notices, summonses, orders, and rules, in causes depending in this court. And as often as any such attorney shall change his place of abode, or the place where he may be so served, he must make the like entry thereof in the said book. And all notices, &c. not requiring personal service will be deemed sufficiently served on such attorney, if served at such place lastly entered in such book with any person resident at, or belonging to such place. And in case of any attorney neglecting to make such entry, the sticking up of such notices, &c. in the Exchequer Office of Pleas, will be deemed good service.

**Must indorse  
their names  
on process,  
&c.**

And every attorney on issuing process from this court, must write upon, or indorse the same with his name and place of abode, and the date of issuing the same: and he must in like manner put his name, address, &c. to every *præcipe* filled in the said office, whether, upon issuing process, or entering any appearance (*g*). And

(*f*) Id. 88.

(*g*) R. C. Mich. T. 1 W. 4.

if he act as agent to any other attorney, he must, in like manner, indorse the name and residence of such attorney.

If a person has served his time to an attorney in due course, and has not been admitted of any court, but is desirous of being admitted *first* or *only* in this court, he must go through the same forms in this court and give the same notices as are required in the other courts; that is to say, he must during one full term previous to the term in which he is to be admitted, cause a notice to be stuck up in the Exchequer Office of Pleas (in the place where such notices are usually given), stating his name and place of abode, and the name and place of abode of the attorney or attornies to whom he has served his articles, and stating the term in which he intends applying to be admitted. A similar notice must be stuck up in the Court of Exchequer at Westminster in the place where such notices are usually fixed. He must also give a like notice, and cause the same to be entered at each of the baron's chambers, in a book kept there for that purpose. The notices should be given previous to the term, though there is a case in the King's Bench in which notice was affixed in Westminster Hall, on the first day of term before the sitting of the court, and which, in that case, was considered a sufficient compliance with the rule (*h*), but there would be some danger in leaving it to so late a period.

The person applying to be admitted must also make an affidavit of payment of the stamp duty; of the names of the parties to the articles; when they were dated; and at what time enrolled and registered: and if there has been any assignment, the particulars thereof must be stated.

(h) R. G., K. B., T. T., 33 Geo. III. *ex parte* Davey. 4 D. & R. 696.

Original Affidavit filed with the Articles.

The affidavit filed originally with the articles must be obtained; an affidavit of service of the several notices will also be necessary. These three affidavits must be taken with one part of the articles to a baron's chambers.

Attendance at Baron's Chambers.

If the attorney, to whom the clerk was articulated, should not accompany him thither, he should either certify the service on the back of the articles, or join in the affidavit

Certificate of service.

of due service. The baron, upon examining these documents, and also examining the party applying for admission as to his fitness and capacity, will grant his fiat for the admission.

Fiat.

Fiat.

The fiat and affidavits must afterwards be taken to the masters' clerk at the Exchequer Office, and filed with him; the name will then be put in the list for such morning as it is intended to take the oaths in court, and the party must be in attendance before the sitting of the court. A 25<sup>l</sup>. stamp on a printed form on parchment must be obtained and signed by a baron, and left with the masters' clerk to be filled up in the usual manner, and the same

Attendance in Court to be sworn.

Admission to be enrolled.

will be signed and enrolled by the master. The attorney must then enter his name and address as before mentioned at the Exchequer Office, in the alphabetical book kept for that purpose.

Annual Certificate.

As soon afterwards as the annual certificate is taken out the party may proceed to act as an attorney, but not before. The certificate must be left with the master to be registered.

When to be taken out.  
When it expires.

All certificates expire on the 15th of November, and must be renewed previous to the 16th of December (i), and if an attorney neglect to take out his certificate for a whole year, or if his agent omit to do so for him for the

like period, he is deemed to be off the roll, and must apply to the court for his re-admission and pay up his arrears of duty, and such fine as the court will impose; but in such a case a term's notice is not necessary (*k*). If the attorney has actually ceased to practice from pecuniary difficulties, or absence abroad for more than a year after the expiration of his certificate, he must give the same notices of admission as on his first admission.

When Attorney off the Roll.  
Re-admission.

An attorney may be admitted without paying arrears of duty (*l*) or any fine if he has never practised since the taking out of his last certificate (*m*), or if he has actually discontinued practice from illness (*n*), or any other cause; but where a considerable time has elapsed since the party discontinued to practise, the court will require a full affidavit of the reasons of such discontinuance, and that no complaint was made against him (*o*). To enable him to be re-admitted he must move the court on affidavit, stating the facts that have prevented his taking out his certificate; and if due notices of re-admission have been given he must verify the same, and notice of his intended application should be given to the solicitor of stamps, and the said notice verified in like manner. In the case of a re-admission the attorney may be sworn in court and re-admitted on the last day of term, when notice has been given before the first day, and continued during the whole term. If the certificate be taken out before the 16th of December it will be dated and have effect from the 15th of November, the day on which the former certifi-

If he has never practised.

Illness.

How to be re-admitted.

Notice.

Affidavit thereof.

May be re-admitted last day of Term.

Date of annual certificate.

(*k*) *Exparte Dent*, 1 B. & A. 189. (*m*) *Exparte Clarke*, 3 Moore, 518.  
*Exparte Davis*, 1 Chit. 673. *Exparte Christian*, 3 Moore, 518. (*n*) *Exparte Richards*, 1 Ch. 101.  
(*l*) *Exparte Cunningham*, 1 Bing. 91. (*o*) *Exparte Mayer*, 5 Moore, 141.



When it expires.	cates expires; but if taken out after the 16th of December, it will be dated on the day the duty is paid, and will not protect the attorney from any act done as an attorney between the 15th of November and the day of the date of the certificate; and if two attornies are in
Partner's Certificate.	partnership and carry on business together, or if their names are used jointly, they must both take out their certificates ( <i>p</i> ), though one of them may not derive any profit or advantage therefrom. The certificate when obtained must be left at the Master's office to be entered ( <i>q</i> ).
Must be left with the Master.	The omitting to take out the certificate does not deprive the attorney of any privilege except that of practising, unless the same be omitted for the space of a whole year.
Notice by Mistake.	A notice of application to be admitted in the Common Pleas having been by mistake inserted in the book kept at the chambers of one of the judges of the King's Bench, the Court of Common Pleas, on an affidavit of that fact, admitted the party ( <i>r</i> ).
Abandonment of articles by Clerk cannot be admitted.	A clerk having served a part of his articles and then abandoned the contract, and having after the expiration of the articles been assigned to another attorney, was refused admission as being irregular ( <i>s</i> ).
Clerk's illness no prevention.	But where a clerk was prevented by illness from attending in the regular course, but did all he could to qualify himself, he was allowed to be admitted ( <i>t</i> ).
An Attorney of another Court may practise by authority in writing.	An attorney of either of the other superior courts having duly obtained his certificate, but not being admitted in this court, may nevertheless practise in this court in the name, and by the permission, of an admitted and cer-

(*p*) 37 Geo. III. c. 90.(*s*) *Exparte Unthank*, 2 M. & P.(*q*) *Ibid*.

453.

(*r*) *Exparte Lambert*, 3 M. & P.  
269.(*t*) *Exparte Matthews*, 1 B. & A.  
160.

tificated attorney (*u*); but such permission must be *in writing*, and the proceedings must all appear in the name of the latter.

By the 17th section of the act 2 Will. IV. c. 39, s. 17, every attorney whose name shall be endorsed on any writ issued by authority of that act, must, on demand in writing made by or on behalf of any defendant, declare forthwith whether such writ has been issued by him or with his authority or privity; and if he answer in the affirmative, then in case the court or any judge of the same, or of any other court shall so order and direct, he must also declare in writing, within a time to be allowed by such court or judge, the profession, occupation, or quality and place of abode of the plaintiff, on pain of being guilty of a contempt of the court from which such writ shall appear to have been issued; and if such attorney shall declare such writ was not issued by him, or with his authority or privity, the said court, or any judge of either of the said courts may, if it shall appear reasonable so to do, make an order for the immediate discharge of any defendant or defendants, who may have been arrested on any such writ, on entering a common appearance.

Attorney to declare whether any writ issued by his authority or not.

Where an attorney in the country, not admitted in this court, practises through an agent in town who is admitted and qualified, the proceedings on the record must be in the name of the agent, otherwise the country attorney cannot recover his costs (*w*).

No Attorney should be on the record without being admitted, or he can have no costs.

An attorney wilfully and knowingly permitting any person not admitted an attorney or solicitor to practise in his name, is liable to be struck off the roll (*x*).

An Attorney not to allow a person not admitted to practise in his name.

If an attorney's name be used by an unqualified person

No unqualified person

(*u*) 2 Geo. II. c. 23.

not yet reported.

(*w*) M. S. — M. T. 1832, C. S.

(*x*) 2 Geo. II. c. 23, s. 17.

to use an  
Attorney's  
name.

without his knowledge the proceedings may be set aside (y).

Proceedings  
may be set  
aside.

And if one attorney uses the name of another attorney without his authority the proceedings may be set aside, and an attachment against him will be granted (x).

An Attorney  
not admitted  
in Exche-  
quer cannot  
practise in  
his own  
name.

No attorney not admitted of this court can practise in his own name, and though the court will not set aside the proceedings taken by him (unless it appear that the client was aware of the fact), yet the proceedings will be stayed until a proper attorney be appointed.

No Attorney  
being a pri-  
soner, to  
commence  
action for a  
client.

No attorney being a prisoner, or within the rules of any prison, can either in his own name or in the name of any other attorney commence proceedings in any action, on pain of being struck off the roll, and any such proceedings may be set aside; and any attorney permitting a prisoner to practise in his name is liable to the same penalty (a). This, however, does not extend to any proceedings commenced before the imprisonment of the attorney, nor to the proceeding upon a bail bond in an action commenced before such imprisonment (b), nor to the defending any suit (c), nor to the commencement of any action at his own suit (d), the statute being confined to proceedings commenced by him for his clients. He, however, loses his privilege of freedom from arrest, and may be sued and held to bail as in ordinary cases against a prisoner (e).

No Attorney  
to permit a  
prisoner to  
practise.  
Does not  
extend to  
proceedings  
previously  
commenced.  
Nor on bail  
bond.

Nor defend-  
ing any  
action.  
Nor at his  
own suit.

An Attorney  
not to carry  
on business  
at two places.

An attorney ought not to carry on business at two separate places by means of a clerk; and an attorney

(y) Hopwood v. Adams, 5 Burr. Barne, 46.

2660.

(c) Longman v. Rogers, Id. 263.

(x) Oppenheim qui-tam v. Har-  
rison. Id. 20.

Willes, 288.

(d) 2 M. & S. 605.

(a) 12 Geo. II. c. 13, s. 9.

(e) 4 B. & A. 88. 7 T. R. 671.

(b) Whcetham v. Needham, 3 M. & S. 605.

carrying on business at a different place from his usual residence, by means of an articulated clerk, was held not entitled to recover his costs in respect of such business (*f*); and there was a case in this court in which an attorney never having seen the client, but a writ having been issued by a clerk or agent in the name of an attorney, it was determined that the attorney could not recover for the same.

All notices to and services of summonses, &c. upon attornies practising in London or Middlesex, in respect of proceedings taken in this court, and not requiring personal service, will be deemed sufficiently served if the same be left at the place mentioned in the book at the Exchequer Office, as the place of residence or business of the attorney, and may be left with any person resident there; and if the attorney has neglected to make such entry in the said book, then the fixing up the same in the Exchequer Office of Pleas in the usual place will be sufficient service. All rules, summonses, orders, notices, pleadings, proceedings, &c. must be delivered and left before nine o'clock at night; if left after that time, the service is void (*g*).

Where notices, &c. are to be served on Attornies.

Must be before nine o'clock.

An attorney of one court sued by an attorney of another court cannot plead his privilege; the privilege of the court in which the action is commenced being preferred (*h*).

An Attorney of one Court sued by an Attorney of another Court loses privilege.

When the plaintiff is an attorney he may bring his action in his own court (*i*), and lay and retain the same

May bring his action in his own Court.

(*f*) *Taylor v. Glassbrook*, 3 Stark. 1 Barnard, 182, 288. 1 Bl. R. 19.  
75. *Hopkinson v. Smith*, 1 Bing. 15. Barnes, 44. 2 Bl. R. 1325. 9 Price,  
(*g*) R. G. Ex. M. T. 1 Will. IV. 16. 2 Bl. R. 1123.  
(*h*) 2 Brownl. 266. 2 Str. 837. (*i*) *Gilbert & P.* 3.

in Middlesex (*k*); but an attorney defendant is not entitled to change the venue to Middlesex if laid in another county (*l*); and it is said an attorney is entitled to have his cause tried at bar (*m*). All these privileges, however, may possibly be considered as abolished by the act for the uniformity of process.—See “*Privilege*.”

Not to be changed without an order.

An attorney cannot be changed in a cause without the leave of the court or the order of a baron (*n*).

His costs first paid.

The court will not permit an attorney in a cause to be changed until his bill of costs has been settled and paid, unless the attorney consents (*o*).

Not necessary to be changed on a writ of Error.

It does not, however, appear necessary for the purpose of bringing a writ of error for defendant, to change the attorney (*p*).

If the Attorney die.

If the attorney in the cause happen to die during the progress of the suit notice must be given to the opposite party before the new attorney can proceed in the cause: there should be a baron's order appointing him obtained and a copy served (*q*).

New Attorney must observe rules, &c.

The new attorney, when appointed, must observe all the rules, orders, &c. under which the first attorney was bound, and would have been liable had he continued to act (*r*).

An Attorney not bound to commence or defend an Action.

An attorney cannot be compelled to commence or defend any action; but if he gives an undertaking in

- (*k*) 2 Salk. 668. 4 Burr. 2017. (*p*) Batchelor v. Ellis, 7 T. R. 2 Bl. R. 2065. 3 Durnf. & E. 573. 337.  
 7 B. & C. 683. (*q*) Ryland v. Noakes, 1 Taunt. 342.  
 (*l*) 4 Burr. 2027. 2 Bl. R. 1065. 342.  
 3 Durnf. & E. 573. (*r*) 1 Doug. 217. 12 Mod. 440.  
 (*m*) Mod. 123. 7. Mod. 50. 2 W. Bl. 1323. 8 Say. 218.  
 (*n*) Doug. 217. Say, 218. Bl. 8. 218.  
 (*o*) 12 Mod. 440. 8 Mod. 306.

writing to appear, the court or a baron will compel him to do so, the undertaking must, however, be in writing (*s*). There appears, however, a case where a plaintiff not being able to get an attorney to act for him applied to the court to have one appointed on his behalf, and the court appointed one accordingly (*t*).

It would seem that an attorney not of this court, but practising therein through an agent, is subject to the summary jurisdiction of this court, and will be compelled to perform an undertaking to pay debt and costs, although the undertaking be void by the statute of frauds (*u*).

An Attorney practising through an agent subject to summary jurisdiction.

Where an attorney has been struck off the rolls of one of the superior courts on the report of the master, he will, on a motion for that purpose, be struck off the rolls of another court, unless sufficient cause be shown against the motion (*w*); but there may be cases in which the court will not strike the attorney off the roll who has been struck off the roll of another court, particularly where the reason of his being struck off the roll does not appear (*x*). And there is a case (*y*), where an attorney having been struck off the rolls of the Court of King's Bench and Common Pleas, upon an application to the Court of Chancery to strike him off the rolls of that court, Lord Eldon refused so to do without first knowing and judging of the grounds upon which he was so

When struck off Roll in one Court.

May be struck off another.

Lord Chancellor will not strike an Attorney off the Roll without hearing the whole Case.

(*s*) 6 Mod. 42. *Lorymer v. Holleston*, 2 Str. 693. 12 Mod. 251.

4 D. & R. 719.

(*t*) 12 Mod. 583.

(*u*) *Evans v. Duncombe*, 1 C. & J. 372. and the several cases men-

tioned therein.

(*w*) *Re. R. P. Smith*, 1 Brod. & B. 522.

(*x*) *Exparte Hayne*, 3 Brod. & B. 257.

(*y*) *Exparte Yeates*, MS.

struck off the rolls of the other courts; and upon the reasons being afterwards stated, and the matter fully argued, his lordship refused the application, and lately the same attorney has been restored to the roll of the Court of King's Bench (y).

(y) M. T. 3 Will. IV. K. B.

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## BOOK III.

### WRITS.

THE only writs now in use in this court in personal actions are those prescribed by the act of 2 Will. IV. c. 39, entitled, "An Act for Uniformity of Process in Personal Actions in His Majesty's Courts of Law at Westminster;" viz. the writ of summons, and distringas thereon, the writ of capias, and the writ of detainer (the forms of which, as directed by that act, are set out in the Appendix): all other writs being by that act abolished. The writs of summons, capias, and detainer, are the proper commencement of such actions; the proceedings by bill being *superseded* by that act. It should however be observed that this statute is not binding upon His Majesty, who may therefore still proceed by scire facias for the recovery of debts due to him on bond, recognizance, or judgment, &c., or found by inquisition upon an outlawry, or extent, or by original writ of scire facias to repeal letters patent, &c.

Writs now in use.

Writ of Summons, Distringas, Detainer.

Forms of.

All other Writs abolished.

Only proper commencement of Actions.

Stat. 2 Will. IV. c. 39, not binding on His Majesty.

### WRIT OF SUMMONS.

The writ of summons is very similar to the writ of *venire facias ad respondendum* heretofore used in this court, and more particularly described in the first edition of this work; and the practice in respect thereof is nearly the same.

Writ of Summons.

Similar to old writ of *venire facias*.

Practice the same.



Proper Writ  
when Defen-  
dant not held  
to bail.

Date.

No return  
day  
mentioned.  
In force four  
months.

Not directed  
to any Coun-  
ty or Sheriff.

Directed  
to the  
Defendant.

Must be  
served in  
the County  
where Defen-  
dant resides.  
Or within two  
hundred  
yards  
thereof.  
Parcel of a  
County.

Must be  
endorsed with  
name &c. of  
Attorney.

Also by  
Agent and  
Attorney.

And by  
Plaintiff in  
person.

the same. This is the proper writ in ordinary cases where it is not intended to hold the defendant to bail.

It must bear date on the day on which it is issued whether in term or vacation, and must be tested in the name of the Lord Chief Baron, or in case of a vacancy of that office in the name of the senior puisne baron. There is no particular day appointed for the return of the writ, but it remains in force four months from and including the date thereof. It is not directed into any county, or to any sheriff, but it is directed to the defendant, or defendants: and his or their place or places of residence must be mentioned therein. It must however be served in the county in which the defendant's residence is described in the writ to be, or within two hundred yards of the same: and if the writ is to be executed in a district or place being parcel of one county, but situate within and surrounded by another county, such place may be considered and taken to be part, either of the county wherein it is situate, or of the county of which it is a parcel.

The writ must be endorsed, when issued, with the name and place of abode of the attorney issuing the same; and in case such attorney shall not be an attorney of this court, then it must also be endorsed with the name and place of abode of the attorney, in whose name the writ is taken out. And if it is issued by an agent for an attorney in the country the name and place of abode of such attorney must be added (a): or if the writ be issued by any plaintiff in person there must be a memorandum to that effect endorsed, and mentioning the city, town, or parish, also the name of the hamlet, street, and number of the house, where the plaintiff resides, if any such there be (b).

(a) R. G., M. T. 3 W. IV.

(b) 2 W. IV. c. 39, s. 12.

If the plaintiff, or his attorney, omit to insert, or in-  
dorse on the writ, or copy, any of the matters required  
by the act to be inserted therein, or indorsed thereon,  
such writ is not to be held void on that account, but the  
same may be set aside as irregular, on application to the  
court, or a baron, for that purpose (c).

If same  
omitted.

Writ not  
void.  
But service  
may be set  
aside.

It is also necessary to endorse on the writ, the amount  
of the debt for which the action is brought; as also the  
amount of costs claimed by the attorney for the writ:  
which costs are, however, liable to taxation: and if more  
than one-sixth be disallowed on taxation, the plaintiff's  
attorney must pay the costs thereof (d), otherwise they  
must be paid by the defendant.

Amount of  
Debts and  
Costs to be  
indorsed.

Taxation of  
the Costs of  
Writ.

No indorsement however in this respect is necessary,  
unless the action be brought to recover a debt; nor will  
the court set aside the proceedings for irregularity, un-  
less it appear, on affidavit, that the action was brought  
to recover a debt.

Indorsement  
not necessary  
except action  
be for debt.

All the defendants (if more than one) must be named  
in the writ; but it must not contain the name or names  
of any defendant, or defendants, in more than one action.  
The character in which a plaintiff may sue (e), or a  
defendant be sued (f), such as executor, or administrator,  
or assignee, &c., need not be stated, though such de-  
scription, if correct, is not objectionable.

Must not  
contain more  
than the De-  
fendants in  
one Action.  
Addition of  
parties need  
not be made.

If, however, either party is described in the writ, as  
suing, or being sued in a particular character, the plaintiff  
cannot afterwards declare in his own right, or in any  
other character, or in any other form of action, than the  
one mentioned in the writ; nor can he declare against

If parties  
described  
cannot  
declare in a  
different  
character.

(c) R. G. M. T., 3 Will. IV.  
(d) Ib.  
(e) 2 Str. 1232.

(f) 6 Moore, 66. 3 Brod. & Bing.  
4, s. c.

the defendant in any other character than that mentioned in the writ. (*g*).

Cause of action to be stated.

The nature of the action must be stated in the writ, but the forms in the schedule to the act, in describing the same, only apply to such actions as are therein described: in other cases it appears to be sufficient to state the nature of the action generally; such as, "*In an Action of Trespass*," or, "*of Trespass on the Case*," or, of "*Covenant*," &c. as the case may be (\*).

Writ to be served personally if possible. If not possible a distringas may be obtained.

A copy of the writ, and endorsements, should be served personally, when it can be done; but if the defendant keeps out of the way to avoid service the court will grant a writ of distringas, as hereinafter mentioned.

Præcipe to be filed. To be sealed.

A præcipe must be filed in the office, and the writ being sealed by the Chancellor of the Exchequer (*h*), must afterwards be signed by the master; but blank forms of writs, *ready sealed* by the Chancellor of the Exchequer, may be obtained of the bag bearer at the Exchequer Office.

Blank forms ready sealed.

If personally served plaintiff may declare.

If a copy of the writ be personally served, or if it can be shown to have come to the hands of the defendant (*i*), so as to constitute personal service, the plaintiff may declare, and proceed in the action in the usual course, and if the defendant neglects to appear in eight days from the service thereof (inclusive of the day of service), the plaintiff may appear for him upon filing an affidavit of service, and proceed to judgment. The person serving the copy of the writ must produce and show the original to the defendant, if required so to do; otherwise the

And if defendant does not appear, plaintiff may appear, sec. stat.

Writ to be produced on service, if required.

(*g*) Arch. Pr. 67.

proceedings were irregular, and the set them aside.

(\*) King v. Skeffington, Bt. M. S. Exch. H. T. 3 Will. IV., which described the action as "*Trespass on the Case*," the declaration was "*In Case on Promises*," the court held

(*h*) The office is in Scotland Yard, Whitehall.

(*i*) Rhodes v. Innes, 5 M. & P. 153.

service will be deemed irregular, and may be set aside with costs (*k*): and he must endorse thereon, within three days at the least, from the day of service, the day of the month, and week, on which he served the same, otherwise the plaintiff cannot enter an appearance according to the statute (*l*) for the defendant: and it is necessary to state the indorsement in the affidavit of service, and that the deponent did so indorse the writ, and within the time specified by the rule, and the day of the month, and week, that it was so indorsed.

Day of service to be indorsed.

To be stated also in affidavit of service.

In case of personal service, the eight days for appearance are calculated inclusive: if the service, therefore, be on the tenth day of the month, the defendant has all the seventeenth day to appear, and in case personal service cannot be effected, but service of the writ be by leaving a copy at the defendant's dwelling-house, as hereafter mentioned, the eight days for appearance are in like manner reckoned from the last day of the attempting to serve the defendant (\*); and which, therefore, for that purpose, may be considered the return day of the writ. If, however, the last of the eight days happens to be a Sunday, Christmas Day, Good Friday, Holy Thursday, or any day appointed for a public fast, or thanksgiving, in either of such cases the following day is to be considered as the last of the eight days; and if the last of such eight days shall happen to fall on any day between the Thursday before, and the Wednesday after Easter Day, then in every such case, the Wednesday after Easter Day, is to be considered the last of the eight days. The writ, in fact, is returnable "immediately" on service thereof.

Time for appearing.

(*k*) *Thomas v. Pearce*, 2 B. & C. 761. 4 D. & R. 317.

(*l*) R. G. M. T. 3 Will. IV.

(\*) *Brian v. Stretton*, 1 C. & M. 74.

Against Baron and Feme.

Baron must appear for both.

A Plaintiff may appear sec. stat.

If Baron pleads for himself alone.

A nullity.

Coverture does not abate the writ.

Before whom affidavit of service to be sworn.

Not before Plaintiff's Attorney or his Clerk.

Writ of Summons against a Prisoner.

Attorney to declare if Writ issued by his Authority.

On proceeding against husband and wife service upon the husband is sufficient, and he should appear for both (*m*): and if he do not appear for both, the plaintiff may enter an appearance for both (*n*): or, if the husband appear only for himself, the plaintiff may appear for the wife (*o*). And, in a case where the attorney for a husband sued jointly with his wife, for a debt due from her *dum sola*, appeared on an undertaking, and pleaded for the husband only, the plaintiff (having caused the wife to be served with process), appeared for her *sec. stat.* and treated the plea so put in by the husband alone as a nullity, and signed judgment as for want of a plea (*p*), the court refused to set such proceedings aside. The coverture of a defendant after the commencement of an action does not abate the plaintiff's writ (*q*).

The affidavit of service of writ may be sworn in court, or before a baron, or before the masters, or their clerk, or in the country before a commissioner appointed to take affidavits, but not before the plaintiff's attorney or his clerk (*r*).

The writ of summons may also be used for the commencement of an action against a prisoner in custody of the sheriff, or warden, but does not operate as a detainer against him (*s*).

If any attorney, whose name shall be indorsed on any writ of summons, as having been issued by him, shall declare that such writ was not issued by him, or with his authority or privity, all proceedings thereon may be stayed (*t*).

(*m*) Barnes, 412.

(*n*) Collins v. Shapham and ux. Barnes, 412. Buncombe v. Love and ux. Id. 406. 1 Burt. 109.

(*o*) 6 Price, 139.

(*p*) Russell v. Buchanan and ux.

5 Price, 139.

(*q*) Jones v. Parnell, 1 Burt. 167, and Raym. 1525.

(*r*) R. G. H. T. 2 Will. IV.

(*s*) Tidd's Unif. Pra. 7.

(*t*) R. G. M. T. 3 Will. IV.

It seems that process may be served at any hour, the distinction is between service of notices, summonses, &c. and service of process (*u*). Process may be served at any hour.

No action can be brought by an attorney in the name of another person without sufficient authority, and if there be not a sufficient authority the court will set aside proceedings (*w*). No Action can be brought without Authority.

Considerable doubt has been entertained as to the proper course to be pursued where there are two or more defendants in an action residing in different counties; and whether or not after issuing a writ into the county in which the first defendant resides, it is necessary to issue a *testatum* writ, or writs, into the other counties; or whether there should be an original writ into each county; or whether or not, one writ is sufficient into the first county against all the defendants. Before the passing of the act for the uniformity of process, the proceeding upon a *venire facias*, which, as before mentioned, was in effect very similar so the present writ of summons, (except that the *venire facias* was directed to the sheriff, or other proper officer), the practice was to issue a writ into every county wherein a defendant was to be found; and there must have been as many writs as there were defendants residing in different counties; a præcipe was necessary for each writ, filed on the respective county file; and it would seem, on consideration, that such would be the proper course of proceeding under the act. In the sixth paragraph of R. G., M. T., 3 Will. IV., it is said, a plaintiff may, if he think fit, issue an alias writ into another county; but Where Defendants reside in different Counties.

(*u*) *Priddoe v. Cooper*, 1 Bing. 66. *Upton v. Mackenzie*, 1 D. & R. 172. (*w*) *Buckler v. Roach*, 1 Chit. R. 193. *Wybourn v. Neale*, 2 Burr. 813.

that appears only applicable to cases where a defendant has been described, as residing in one county, and is afterwards to be found in another county; and not to cases where there are different defendants in an action residing in different counties: the old practice therefore, of issuing an original writ into each county seems still to be the proper course. It does not appear that this point has ever come before either of the courts, notwithstanding the doubts entertained upon the subject.

Proper Writ  
against an  
M. P. accord-  
ing to stat.  
6 Geo. IV.  
c. 16.

And against  
Corporations  
and Hun-  
dredors.

The writ of summons is also the proper writ to be used in actions against members of parliament according to the provisions of the statute, 6 Geo. IV. c. 16. s. 10. (*relating to bankrupts*) also against corporations, and hundredors, as will be hereafter mentioned under the respective heads; it being more convenient first to describe the writ of distringas [issuable after the writ of summons], and the proceedings thereon.

#### WRIT OF DISTRINGAS.

Writ of Dis-  
tringas.

On non per-  
sonal service.

May be ob-  
tained by  
rule of Court  
or Baron's  
order.

To distrain  
40s.

If it shall appear to the satisfaction of the court, in term time, or to a baron at chambers in vacation, that the defendant could not, or would not, and therefore has not been personally served with the writ of summons, and that a copy of such process had been properly left at the dwelling-house, or place of abode, of the defendant, and in case the defendant doth not appear thereto within the eight days prescribed for his appearance (\*), according to the usual practice in that respect, the court in term time, or a baron at chambers in vacation, will grant a rule, or order, with leave to sue out a distringas to compel the appearance of the defendant. Upon this distringas the plaintiff must distrain to the value of 40s. on the

(\*) *Brian v. Stretton*, 1 C. & M. 74.

defendant's goods, and must serve on the defendant, or leave at the dwelling-house, where the distringas is executed, a written notice as hereafter mentioned. Notice thereof must be served on Defendant:

It should, however, be observed, *and strictly attended to*, that the court in this case requires a very full and distinct affidavit before a rule for a distringas will be granted; the person endeavouring to serve the writ of summons must swear, that he has tried at least three times (unless any particular circumstances should render three times unnecessary), and a copy of the writ must be left on the last attempt (\*); he must swear, that on going to the defendant's abode, he informed some person *residing there (describing him or her)*, of his errand; and that he intended calling the next, or some subsequent day, at a particular hour, for the same purpose; and that he did call on such day accordingly; and that he, in like manner, repeated the same visit on a subsequent day, pursuant to a further notice thereof; and he must then swear he believes the defendant keeps out of the way to avoid being served; and he should state the reasons for such belief that the court may judge of the sufficiency thereof. He must also swear, that the said attempts being made without success, the copy of the writ of summons, with notice to appear, and the proper endorsements thereon, was on the last attempt left with some person of the defendant's household (*describing him or her*), *at the dwelling-house of the defendant*, and where the situation of such dwelling-house was (*x*); and he must swear that the defendant has not appeared within the eight days, Full and distinct affidavit required. Contents required.

(\*) *Brian v. Stretton*, 1 C. & M. & M. 27. *Forster v. Williams*, *Ib.* 74. *Johnson v. Rouse*, 1 C. & M. note.  
26. *Street v. Lord Alvanley*, 1 C. (x) *Pitt v. Eldred*, 1 C. & J. 147.



according to the exigency of the said writ, and notice thereunder written; which eight days are to be computed from the day on which the copy of the writ of summons was left; the court having intimated, in the last term, that the eight days ought so to be calculated.

The court has intimated that the above would be the general ground it would adopt in granting a rule for a distringas. Many rules have been refused from such practice not being attended to. It is especially necessary that there should be at least three *bona fide* attempts to serve the defendant (unless, as before mentioned, any particular circumstances may occur, to make so many attempts unnecessary), and a copy of the writ, &c., must be left with some person *belonging to the household of the defendant, at the dwelling-house of the defendant*. It is not sufficient for the deponent to swear that he believes the defendant keeps out of the way to avoid service, but he must state such facts, as induce to his belief, that the court may judge of the reasonableness and sufficiency thereof. The writ of distringas must also contain the nature of the action. In a case lately before this court, where the action was set out "Trespass on the Case," and the action appeared to be "On promises," the court set aside the proceedings on the ground that the action was not properly described in the writ (\*).

Must contain  
nature of  
action.

Service of  
Writ of Sum-  
mons at De-  
fendant's  
dwelling-  
house, De-  
fendant being  
abroad, not  
sufficient.

Nor at the

The service of a writ of summons at the defendant's dwelling-house, during his absence abroad, is not sufficient service to ground a motion for a distringas to compel appearance; nor will the court grant a rule to show cause, why the service should not be deemed good service (y); nor is the service good at the counting-house

\* King v. Skeffington, M. S.

(y) Canlin v. Sir R. Lawley, Bart. 2 Price, 12

of a defendant, the defendant residing abroad, and having no dwelling-house in this country (x) ; nor would the court grant a distringas against a defendant, who has not been served with a writ of summons, otherwise than by delivering it to a person at whose house he had resided, unless it appear that he lived there at the time of such service (a). Nor will the court grant a distringas by serving the writ of summons at the defendant's counting-house by leaving it there with a clerk of the defendant, though after several ineffectual attempts to serve the defendant personally (b).

counting-house of Defendant, Defendant being abroad. Nor at any place except Defendant residing there.

Nor at counting-house of Defendant with a Clerk.

In joint actions against more defendants than one all the defendants must be in court before the plaintiff can declare.

All Defendants must be in Court before declaration.

The distringas must be tested on the day it is issued, whether in term or vacation ; and must be returnable on *some day in term*, not being less than fifteen days after the test thereof.

Teste and return.

If there are two defendants in the writ of summons, and only one appears, the distringas should be against the other defendant only.

Distringas to be against the party not appearing only.

The distringas is a *non omittas* writ (and except into counties palatine), directed to the sheriff of the county in which it is to be executed, commanding him to levy forty shillings upon the goods of the defendant. There must be a notice subscribed to the writ, to the intent that the sheriff has distrained upon his goods and chattels for the sum of forty shillings, in consequence of his not having appeared in court to answer the plaintiff, according to the exigency of the writ of summons bearing teste, &c. ; and that in

Non omittas.

Directed to the Sheriff.

Notice subscribed.

(x) Hall v. Gumble and another, 1 Price, 309.

1 Tyr. 490.

(b) M<sup>c</sup>Nabb and others v. Ing-

(a) Horton v. Peake and another, ham and another, 2 Price, 9.

default of his appearance to the writ of distringas within eight days inclusive from the return thereof, the plaintiff will cause an appearance to be entered for him and proceed to judgment and execution.

Copy Writ,  
and Notice  
must be  
served.

A copy of the writ and notice must be given with the writ of distringas to the sheriff or other officer to whom the writ is directed ; and which copy must be served by the officer on the defendant if he can be found ; otherwise it must be left with some proper person, such as one of the family or a servant of the defendant, at the place where the distringas is executed. The writ being executed and the distress made, if the defendant does not appear within eight days from the return thereof, the plaintiff may, on having the distringas returned and filed by the sheriff, enter an appearance for the defendant and proceed to judgment : it is however necessary that the distress should be actually levied before this can be done, otherwise further application must be made to the court. It is usual for the sheriff to return the writ of distringas on request, if he does not he may be ruled so to do as in other cases.

In default of  
appearance  
by defendant  
Plaintiff may  
appear, sec.  
stat.

And proceed  
to judgment.

Return of  
Writ.

If Defendant  
not found  
or distress  
made, further  
application  
necessary.

If the sheriff should return "*non est inventus*," and "*nulla bona*," and the defendant should not appear within the eight days, and it should be made appear by affidavit to the satisfaction of the court in term time, or to a baron in vacation, that due and proper means have been taken to serve and execute such writ of distringas, the said court or baron may authorise the party suing out the writ to enter an appearance for the defendant ; and the plaintiff may thereupon enter an appearance accordingly, and proceed to judgment and execution. The form of the affidavit to be used in such a case must of course depend upon the particular circumstances thereof.

Form of  
Affidavit.

The costs claimed by the attorney for the writ of *distringas* and application to obtain the same, must be endorsed on the writ with the addition of the former costs of the writ of summons, which are subject in like manner to taxation.

Costs to be indorsed on writ.

The sheriff may detain the property distrained as a pledge for defendant's appearance; but in general it is returned on defendant's depositing sufficient to cover the amount of the issues: the deposit however cannot be demanded. The defendant is entitled to have the issues or deposit returned to him upon entering an appearance.

How to distrain.

Issues to be returned on appearance.

By the practice before the passing of the act for the uniformity of process in an action against partners jointly, if one partner should have been served and the other should have been abroad, a *distringas* might have been issued against the latter, and issues levied upon the *partnership goods*; and the subsequent proceedings as to entering an appearance for the defendant, &c. were the same (c). And this was the only course a plaintiff could pursue under similar circumstances, there being *then* no proceeding to outlawry in the Court of Exchequer; but as the plaintiff may now proceed to outlawry the court probably will not sanction that practice, and indeed it has lately been incidentally mentioned by the court, that in *all* cases where one of the defendants is out of the country, the only mode of proceeding is to outlaw such defendant.

Old practice against partners.

One abroad.

No *distringas* can be issued until after a writ of summons is executed, or rule of court, or baron's order, made for that purpose. If the issues cannot be levied in the

Testatum Distringas.

(c) *M'Murdo v. ors. v. Langton.* 5 Price, 552. *Petty v. Smith*, 2 Y. & I. 111.

same county, a testatum distringas may be issued into another county (d).

Counties  
Palatine.

In counties palatine the writ must be directed "*to the chancellor or his deputy,*" commanding him "*that by writ, &c., directed to the sheriff, &c., he command, &c.*" or in Durham the writ must be directed "*to the bishop or his chancellor,*" directing him "*that by writ under seal, &c. directed to the sheriff of the County of Durham, &c.*" The authority and jurisdiction of the chamberlain and vice chamberlain of the county palatine of Chester being abolished, the writ must now be directed to the sheriff of that county.

If Defen-  
dants reside  
in different  
counties.

If there are two or more defendants in an action residing in different counties, and it is necessary to issue a distringas against both of them, there should it seems be a separate writ into each county: but see Observations upon this point under title of "*Writ of Summons.*"

Outlawry.

The proceedings on writ of summons and distringas, with a view to outlawry, being somewhat different, will be treated of hereafter.

#### WRIT OF CAPIAS.

Writ of  
Capias.

This is the proper and only writ to be used in cases where it is intended to hold a defendant to bail.

No person to  
be held to  
bail for less  
than 20l.

Counties  
Palatine 50l.

No person can be held to bail for a less sum than 20l.; and in the Counties Palatine of Lancaster and Durham. in a less sum than 50l. (e). The act of 7 and 8 Geo. IV. c. 71, s. 7, so far as it related to the amount of the arrest in Chester and Wales, being superseded by the

(d) 1 Burt, 99. 2 Will. IV. c. 39, (e) 7 & 8 Geo. IV. c. 71, s. 7.  
s. 3.

statute 11 Geo. IV. c. 1; Will. IV. c. 70, s. 13, a defendant may now be arrested for a debt amounting to 20*l.* (*f*) in Chester and Wales.

The writ of *capias* is directed to the sheriff of the county, or proper officer of the bailiwick, in which the defendant resides; and is a non omittas writ (as indeed are usually all the writs issued in this court), and is similar in effect to the writ of *quo minus* heretofore in use. A *præcipe* must be filed with the master, and which is entered in a book kept for that purpose, which book may be searched at any time within the office hours.

In order to ground the issuing of the writ there must be the usual and proper affidavit of debt; and it must be filed either before, or at the time of issuing the writ (*g*). The affidavit of debt may be made by the plaintiff or his wife, or a third person, cognizant of the facts (*h*): but no affidavit of debt must be entitled in the cause; if it be so entitled it is bad and cannot be read (*i*). An affidavit to hold to bail in this country may be sworn in Ireland, Scotland, or any foreign country; either before a judge or magistrate (*k*), or any other person, authorized by the laws of the country to take affidavits, as herein-after mentioned: but such affidavit must contain all the requisites necessary in an affidavit to hold to bail made in this country. A defendant cannot be held to bail upon an old affidavit of debt, the act requiring an oath of a debt existing at the time of suing out the writ; for though a debt may be owing at the time of making the

Directed to Sheriff.

Præcipe.

Affidavit of Debt.

Made in Ireland, Scotland, &c.

Defendant cannot be arrested on an old affidavit of debt.

(*f*) See Chap. P. 85.

(*g*) Impey. C. P. 72.

(*h*) 1 Wils, 339. Say, R. 59, s. c.

1 B. & P. 1. 1 Chit. R. 58, 161. & Watson v. Wilkinson. M. S., 9 Price, 332.

(*i*) 1 B. & P. 36, 277. 7 T. R. 454.

(*k*) Ellis v. Sinclair, 37 & T. 273. M. T., 3 Will. IV.

affidavit, it may not be so at the time of issuing the writ (1).

Defendant's  
residence  
must be  
stated in  
Writ.  
Indorsed  
with attor-  
ney's name,  
&c.  
And debt  
and costs.

The defendant's place of residence must be stated in the writ; it must also be indorsed with the name of the attorney suing out the same; and if the attorney acts as agent the names and addresses of both attorney and agent must be indorsed; also the amount of the debt sought to be recovered, and the costs claimed for the writ.

Warning to  
Defendant.

The statute requires a warning to be given to the defendant, at the time of his arrest, to the intent, that if the defendant should go to prison for want of bail, the plaintiff may declare against him before the end of the term next after the arrest, and proceed to judgment and execution: or if the defendant having been arrested, and having made a deposit according to the statute in lieu of bail, should not appear to the action, the plaintiff may enter an appearance for him and proceed to judgment and execution: or if the defendant should give bail to the sheriff on the arrest, and should omit in due course to put in special bail, the plaintiff may proceed against the sheriff, or upon the bail bond: or if any defendant should only be served with a copy of the writ, and not be arrested thereon, and should not enter a common appearance in due time, the plaintiff may enter an appearance for him, and proceed to judgment and execution.

If Defendant  
be served  
with Copy  
Writ instead  
of being  
arrested,  
appearance,  
sec. stat.  
may be  
entered.

Copies of  
Writ to be  
given to all  
Defendants.

The statute also directs that as many defendants as there may be in a writ there shall be as many copies of the writ made with the notices and indorsements thereon; and the same are to be left with the sheriff, in order that they may be served on each defendant on his arrest; and the statute also directs that the sheriff do serve the same accordingly.

By Sheriff.

(1) 1 Burt, 117. Str. 1270.

It is likewise necessary that the sheriff should indorse on the writ, within six days at farthest from the execution thereof, the true day of the said execution, whether by service or arrest; otherwise he will be liable, in a summary way, to make such compensation for any damage that may result from his neglect, as the court or a baron may direct.

Time of execution of Writ to be indorsed by Sheriff.  
A Sheriff liable on summary application.

In case there should be more defendants than one, and it should be desired that some or one only of such defendants should be arrested, and the rest served with a copy of the writ, the sheriff may, upon notice given to him for that purpose, arrest one or more of them as directed, and serve the rest with copies accordingly.

Defendants may be served with Copy Writ instead of being arrested.

If a defendant's residence be in a district, or place, being parcel of one county, but wholly situate within, and surrounded by some other county, every such district, or place, may (for the purpose of executing the writ) be deemed, or taken to be part, as well of the county wherein such district or place is so situate, as of the county whereof the same is parcel; and process may be directed accordingly, and executed in either of such counties.

Parcel of a county.

This writ is not returnable on any day mentioned therein, but runs for four months from, and including the day on which it is issued: it is in fact, however, returnable "*immediately*" on its being executed, and the defendant has eight days from that day, to put in special bail, or make deposit in lieu of bail: the eight days are reckoned, inclusive: a defendant therefore being arrested on the 10th day of the month, would have all the 17th day to put in bail: there would however be an additional day (as in the case of entering appearance), if the 17th day should happen to fall on a Sunday, or *dies non juridicus*.

Writ returnable immediately on execution.

Time for putting in Special Bail.



Alias and  
Pluries.

The writ of capias may be continued by alias; and pluries (as the case may require), if the first writ has not been executed; and may be issued into another county, if the defendant has changed his residence, or can more easily be taken therein. In such case, the defendant should be described, as "*late of, &c.*" and there should be a reference to the previous writs, as having been directed "*to the sheriff of, &c.*"

Return of  
Writ.

The sheriff is bound to return the writ upon being ruled, or ordered so to do. In London or Middlesex he has four days from the service of the rule to make the return; in any other county he has six days.

In vacation.

In the vacation the only mode of compelling the sheriff to return a writ is by a baron's order; and which may be obtained upon an affidavit stating (if the case require it) what has been done under the writ by the sheriff (*m*).

In Term.

In term time it is done by the ordinary side bar rule.

Counties  
Palatine.

If the writ is to be issued into a county palatine it must be directed accordingly. In Lancaster it must be directed "*to the chancellor, &c., or his deputy.*" If into Durham, it must be directed "*to the bishop or his chancellor, &c.*" If any defendant, in any county palatine, is to be served with the process instead of being arrested, he must be served with a copy of the writ, and not by a mandate issued thereon (*n*).

Copy Writ  
to be served  
when  
Defendant  
not arrested,  
and not  
Mandate.  
Baron and  
Feme.  
Baron must  
put in Bail  
for both.  
Feme not to  
be arrested  
alone.

If the writ is issued against husband and wife both may be arrested; though it is usual, and sufficient, to arrest the husband alone (*o*), who must put in bail for both (*p*), or the court will keep him in custody until he does. If the wife is arrested alone, she is entitled to her

(*m*) R. G. M. T., 3 Will. IV.      (*p*) 1 Liv. 216. 1 Vent, 19. 1

(*n*) Chapm. Pr. 97. 1 Burt. 109. Burt, 118. Str. 1272.

(*o*) 1 Taunt, 254.

discharge (*q*) with costs (*r*): or it would seem by a case in the King's Bench, that special bail may justify for the husband only on his filing *common bail* (in this court it would be *an appearance*) for the wife (*s*); but the more regular course is to file special bail for both.

If the writ is to be executed in any other bailiwick, such as the "Cinque Ports," or "Berwick upon Tweed," it must of course be directed accordingly. Cinque Ports, &c.

The writ must state shortly the real cause of action, such as "in a plea of trespass" or "debt," as the case may be. (See *ante*, p. 34, *note*.) Cause of action to be stated in Writ.

The statute 3 Will. 4. c. 39, s. 19, contains a proviso that nothing in that act contained shall subject any person to arrest, who by reason of any privilege, usage, or otherwise, before the passing of the act may by law have been exempt therefrom. Privilege from Arrest.

When the defendant is described in the process or affidavit to hold to bail by initials, or a wrong name, or without a christian name, the defendant will not be discharged out of custody; nor will the bail bond be ordered to be given up to be cancelled on motion for that purpose, if it shall appear to the court that due diligence has been used to obtain knowledge of the proper name (*t*). And there has been a case in this court, in which the court considered due diligence had been used, and discharged the rule nisi with costs (*u*). Initials.

The affidavits of debt in town may be taken in court or before a judge of either of the courts, or before the masters or their clerk, or in the country, before commissioners authorised to take affidavits; and it is no objection Affidavits before whom to be made.

(*q*) 1 Burt, 118.

(*r*) 1 Taunt, 255.

(*s*) 1 Chit. 75.

(*t*) R. G. H. T., 2 Will. IV.

(*u*) Hicks v. Marreco, 1 C. & M.

No supplemental affidavit allowed.

Defendant not to be arrested a second time without an order.

Bail in trover. Trespass. Criminal. Con.

Can only be done on a Baron's order.

Writs to be returned and filed.

Plaintiff can only declare in the character mentioned in the writ.

that the affidavit of debt is taken before the attorney in the cause (*w*): the addition of every person making any affidavit must be inserted (*x*). No supplemental affidavit is allowed to supply a deficiency in the original affidavit to hold to bail, nor can a defendant be arrested a second time after a *non pros*, nonsuit, or discontinuance, without a judge's order (*y*).

A defendant is sometimes held to bail in trover (*z*), or trespass (*a*), or where the defendant is about to quit the kingdom (*b*) or in trespass for mesne profits (*c*), or actions on the case (in tort): likewise in actions for criminal conversation (*d*), and in actions for *scandalum magnatum* (*e*); but in every such case it can only be done upon a baron's order obtained for that purpose, upon affidavits stating the full facts and special circumstances of the case. In order to ground such an order affidavits must be left with the baron, who, upon reading the same, should they appear to him sufficient, will grant an order thereon.

All writs to be returned and filed in this court must be left with the filazer; and with whom all searches for writs and returns thereto must be made.

If the plaintiff makes an affidavit to hold to bail, and sues out process in a particular character, such as executor, assignee, &c., he cannot afterwards declare in his own right, or in any different character (*f*), at least not without waiving the bail, and in some cases the court has set aside the proceedings (*g*).

(*w*) R. G. H. T. 2 Will. IV.

(*x*) Ibid.

(*y*) Ibid.

(*z*) R. G. H. T. 48 Geo. III.

1 Taunt. 203.

(*a*) 1 Sellon, Pr. 36.

(*b*) Ibid.

(*c*) Barnes, 85.

(*d*) Barnes,

(*e*) 1 Sev. 183. L. Raym. 74.

(*f*) Archb. Pr. 67.

(*g*) 3 Wil. 61. 4 Burr. 2417.

5 T. R. 402. 6 T. R. 158. 8 T. R.

416; but see 2 Str. 1232. 3 Wils.

141. 2 W. Bl. 722.

If the affidavit and process be at the suit of two plaintiffs, and the declaration be at the suit of one plaintiff only, the proceedings are irregular, and the court will set them aside (*h*). If at the suit of two Plaintiffs, cannot declare at the suit of one only.

And if the affidavit and process be against two defendants the plaintiff cannot declare against one separately (*i*) notwithstanding one of the defendants may be out of the jurisdiction of the court (*k*). If against two Defendants, must declare against both.

The act of 7 and 8 Geo. IV. c. 71, s. 8, directs, that no sheriff shall grant any warrant on process issued at the suit of any plaintiff *in person*, unless the same be delivered to him by some attorney of one of the superior courts, or by the clerk of such attorney, or an agent authorized for that purpose in writing; and the process must be indorsed in the presence of the sheriff, or undersheriff, or the officer who is to have the execution thereof, with the name and place of abode of such attorney, otherwise the said process is void. This does not, however, extend to attornies suing *in person*. No warrant to be granted by a Sheriff on process at the suit of Plaintiff in person, unless writ indorsed by an Attorney or his Clerk.

Where there are two or more defendants in an action, residing in different counties, a doubt has arisen whether in issuing writs into each county, they are to be issued as original writs, or in the nature of *alias* or *testatum* writs; but for the reason before given, under the title of "Writ of Summons," the old practice seems to be proper; and the writs issued into different counties should not refer to each other, but be issued as original writs into each county. In such cases there must be a separate præcipe into each county; and it should be stated in each præcipe in which county the affidavit to hold to bail is filed. Where Defendants reside in different counties.

(*h*) 1 B. & P. 383.

274; but see 2 N. R. 98. 7 Taunt,

(*i*) 4 East, 589. 5 T. R. 722. 4 458. 1 Bing. 48.

T. R. 695, 7. 2 N. R. 82. 1 Marsh, (*k*) 1 M. & S. 55.

Affidavits  
made in Ire-  
land or Scot-  
land.

If the affidavit of debt be made in Ireland or Scotland (*l*), the judges signature to the jurat must be verified by an affidavit made in this country; but if it be sworn before a magistrate or any other person, not only his signature to the jurat but the authority of the person, before whom the affidavit is taken to administer the oaths, must in like manner be made (*m*); but in such cases a defendant cannot be held to bail without a baron's order for that purpose; the order is obtained by leaving the affidavits at the baron's chambers, and if the baron considers them sufficient the order is granted as a matter of course.

Feme Covert.

Where a married woman has been arrested, the court will discharge her on filing common bail, or order the bail bond to be given up to be cancelled if the coverture be clearly established, unless she has used deceit before or at the time of obtaining the credit (*n*).

#### WRIT OF DETAINER.

Writ of De-  
tainer  
against a pri-  
soner.

Instead of proceeding by bill against a prisoner who may be in custody of the Warden of the Fleet in some other suit, the proper course now is to issue a writ of detainer against him, and lodge the same with the warden.

Directed to  
Warden.

The writ is directed to the warden, and he is thereby commanded to detain the defendant if he shall be found in his custody, and him safely keep, &c.

Debt and  
costs must  
be indorsed.

The writ must be indorsed in the same manner as the writ of capias, as regards the amount of debt and costs; and the name and address of the attorney and agent must be added; but it need not have the warning thereto. A copy of the writ must be given to the warden, who must

Also, name  
of Attorney,  
&c.

To be served  
by Warden  
on Defen-  
dant.

(*l*) *Turnbull v. Moreton*, 1 Chit. 721. (*m*) See 1 M. & S. 302. 3 East, 364.

(*n*) *Fream v. Mitford*, 1 C. & M. 54.

forthwith serve the same on the defendant personally, or leave the same at his room, lodging, or abode. The writ must contain a notice to the defendant, to the intent that within eight days (to be reckoned as in other cases) he must cause special bail to the said action to be put in for him in the court in which he is sued; and that in default of his so doing, the plaintiff may declare against him before the end of the term next after his detainer, and proceed thereon to judgment and execution. The warden is also commanded, immediately after the service thereof, to return the writ or a copy thereof to the court, together with the day of service.

Time for putting in bail, &c.

Writ to be returned by Warden.

The writ must contain the names of all the defendants in the action, but no more.

Only to contain names of Defendants in one action.

ALIAS AND PLURIES WRITS.

If a defendant cannot be met with whilst the writ of summons or *capias* remains in force; that is to say, within the four months from the issuing thereof, the same may be continued by *alias* and *pluries*. Or if the defendant has changed his residence, and may more easily be met with in another bailiwick, the writs may be issued into another county or liberty accordingly. In the case of an *alias* writ of *summons*, the defendant must be described as "*late of*" (the place, &c. described in the first writ), and "*now residing at, &c.*" In an *alias* writ of *capias*, the defendant's residence must in like manner be described; the writ must be directed to the sheriff of the county in which the defendant is to be taken, with the addition of "*as we have before commanded,*" or "*oftentimes before commanded*" (as the case may be), "*our sheriff of, &c.*"

Alias and Pluries writs.

If Defendant has changed his residence.

How to be described.

Present residence to be set out.

To be directed to Sheriff.

If process  
sued out  
before pass-  
ing of act.

If a plaintiff, however, shall have commenced his action previous to the operation of the act for uniformity of process, by writ of *quo minus*, *subpœna*, or *venire facias*, and shall be desirous of continuing that action, he must sue out an *alias* writ of *quo minus*, *subpœna*, or *venire facias* (*as the case may be*), as heretofore (o); the statute applying only to actions *to be commenced* after the act should come into force. If the plaintiff should abandon an action so commenced, and issue process under the directions of the act before mentioned, he cannot recover the costs of the first action.

#### STATUTE OF LIMITATIONS.

Process to  
save statute  
of Summons.

By Writ of  
Summons or  
Capias.

Not to have  
effect unless,  
&c.

In order to save the statute of limitations, the plaintiff may proceed by *writ of summons*; or, if the debt be to an amount, justifying the plaintiff in holding the defendant to bail, he may proceed by *writ of capias*; but neither writ will operate to save the statute, unless the defendant be served with the writ of summons, or arrested on the writ of *capias*; or unless proceedings be taken to, or toward outlawry thereon; or unless such writ, and every writ, if any issued, in continuation of a preceding writ, shall be returned *non est inventus*, and entered of record, within one calendar month next after the day of such expiration; and unless every writ, issued in continuation of a preceding writ, shall be issued within one such calendar month, after the expiration of the preceding writ, and shall contain a memorandum indorsed thereon, or subscribed thereto, specifying the day of the date of the first writ; such return to be made, in

(o) *M. S. Store v. Bold*, K. B. M. T. 3 Will. IV.

bailable process, by the sheriff or other officer to whom the writ shall be directed, or his successor in office; and in process not bailable by the plaintiff or his attorney suing out the same, as the case may be (*p*).

If process, however, has been sued out previous to the passing of the act, proceedings may still be continued thereon, the act referring to actions to be commenced after the passing of that act (*q*).

(*p*) R. G. M. T. 3 Will. IV.

(*q*) M. S. Store v. Bold, K. B. M. T. 3 Will. IV.



## BOOK IV.

PROCEEDINGS AGAINST PEERS, BISHOPS, AND MEMBERS  
OF PARLIAMENT.

Proceedings  
against  
Peers, M.P.'s  
&c.

Same as  
against com-  
mon Per-  
sons.

Proceedings  
against an  
M. P. under  
statute 6,  
George IV.  
c. 16. re-  
lating to  
Bankrupts.

Time for  
appearance.

THE act for the uniformity of process having abolished the former proceedings against peers, members of parliament, &c. the proceedings against them must now be the same as against common persons, except where it is intended to proceed against members of parliament, under the statute 6 George IV. c. 16. intituled, "An Act to Amend the Laws relating to Bankrupts."

In all personal actions where it shall be intended to proceed against a member of parliament according to the provisions of the said statute, the process is required to be according to the form contained in the schedule to that act.

The process is directed to the defendant, and must state his residence; and commands him, that within one calendar month next after personal service thereof on him, he do cause an appearance to be entered for him in an action of debt (*or*, as the case may be), at the suit of the plaintiff; and the defendant is thereby informed, that an affidavit of debt (mentioning for what amount) has been filed at the Exchequer Office of Pleas, Lincoln's Inn, according to the provisions of the said statute; and that unless he pay, secure, or compound for the debt, sought to be recovered in that action, or enter into such bond, as by the said act is provided, and cause an appearance to

*Proceedings against Corporations.*      57

be entered for him within one calendar month, next after such service thereof, he will be deemed to have committed an act of bankruptcy from the time of the service thereof.

In describing a defendant who has a name of dignity, the same must be stated in the writ, otherwise the defendant may plead in abatement; but in an action against a peer, or member of the House of Commons, it is not necessary to describe him as having privilege of peerage or parliament (*a*). Name of dignity must be stated.  
But addition of Privilege of Peerage or Parliament need not be stated.

Upon the distringas the officer distrains *forty shillings*, as in common cases; and if the defendant does not appear thereto, the plaintiff may enter an appearance for him, *sec. stat.* and proceed to judgment. Distringas.

A peer, or member of parliament, sued with a common person, may now, it would seem, be joined in the same common process (*b*). A Peer, &c. sued jointly with a common person.

PROCEEDINGS AGAINST CORPORATIONS.

In actions against corporations aggregate, they must be described by their corporate name (*c*). Proceedings against Corporations.

The proper writ in such actions is the writ of summons, and subsequent process of distringas (*d*); and the same may be served on the mayor or other head officer, or on the town clerk, clerk, treasurer, or secretary of such corporation, and if the sheriff, and next returning officer, to whom the writ of distringas would be otherwise directed, should be a member of the corporation, Proper Writ against.  
Service of.  
As to appearance, sec. stat.

(*a*) Tidd's Unif. Pr. 28.

Pleader, 2131.

(*b*) R. G. M. T. 3 Will. IV.

(*d*) R. G. M. T. 3 Will. IV.

(*c*) 2 Inst. 666. Com. Dig. Tit.

## 58 *Proceedings against Hundredors, &c.*

the writ must be directed to the Sheriff of the adjoining county.

To whom  
process to be  
directed.

In actions against the corporation of London, the process issues to the Sheriff of Surrey, the Sheriffs of London being members of the corporation, and being also Sheriff of Middlesex.

Distringas  
must be exe-  
cuted on Cor-  
poration ef-  
fects.

When pro-  
cess should  
be directed to  
Elisors.

The distringas must be executed on the lands or goods of the corporation (e).

Where the corporate body sues in such character, and the sheriffs and coroners are members thereof, the process should be directed to elisors; and the court on application, will direct the master to appoint the same. The rule is absolute in the first instance (f).

### PROCEEDINGS AGAINST HUNDREDORS, &c.

Proceedings  
against Hun-  
dredors.

To whom  
process  
should be  
directed.

The proceedings against hundredors are the same as against corporations. The writ must be directed "to the men inhabiting within the hundred of, &c." and may be served on the high constable, or any one of the high constables of the hundred (g).

And on  
whom should  
be served.

In proceeding against the inhabitants of any county of any city, or town, or the inhabitants of any franchise, liberty, city, town, or place, not being part of a hundred, or other like district, the writ must be served on some peace officer thereof (h).

(e) Skin. 27.

(g) Stat. 2. Will. IV. c. 39.

(f) Mayor, &c. of Norwich v.

(h) Ib.

Gill, 1 Moore & S. 91.

## *Actions against Magistrates, &c.*      59

### ACTIONS AGAINST MAGISTRATES, CONSTABLES, &c.

In actions against justices of the peace, constables, headboroughs, and officers of the customs and excise, and other persons, for any act done by them in the execution, or arising out of the execution of their office, the time for the commencement of such action is limited by certain statutes to stated periods of time, and notices of such actions must be given previous to their being brought.

As against justices of the peace, constables, headboroughs, &c. the time limited for the commencement of such actions is six calendar months (*i*), including the day on which the injury was committed (*k*). The commencement of the action has reference to the first writ issued in the cause, and if that has been continued by alias, pluries, &c. the same must be regularly continued down, and entered upon the roll; and evidence of the issuing of the writ or writs, and of the regular continuance thereof, is absolutely necessary; and before any such action can be commenced (*l*), it is necessary that the plaintiff, or his attorney, or agent, should give, at the least, one calendar month's notice thereof *in writing* (*m*). The notice must either be personally served on the defendant or left at his usual place of abode (*n*); and it must contain clearly and explicitly the cause of action (*o*); and the nature thereof, and the

Proceedings  
against Ma-  
gistrates,  
Constables,  
&c.  
Officers of  
Customs and  
Excise.

Against Ma-  
gistrates, &c.  
time limited  
for com-  
mencement  
of Actions.  
Six Months.

Notice of  
Action to be  
given.

One Month.

Service of  
Notice.

What it must  
contain.

(*i*) 24 Geo. II. c. 44. s. 8. 12 R. 43. 1 B. & C. 12. 4 D. & R.  
East. 87. 283.

(*k*) 4 Moore, 465.

(*m*) 3 T. R. 623.

(*l*) 2 H. Bl. 214. 2 Wils. 175.

(*n*) 4 T. R. 465.

& 9 East. 364. Peake, 35. 2 D. &

(*o*) 7 T. R. 631. 2 Camp. 196.

## 60      *Actions against Magistrates, &c.*

name (*p*) and place of abode (*q*) of the attorney or agent, giving such notice, must be indorsed thereon (*r*).

Action  
against Con-  
stable, &c.

Necessary to  
demand in  
writing, pe-  
rusal and  
Copy War-  
rant.  
Service of  
demand.

If not grant-  
ed within six  
Days.

Action  
should be  
brought  
against Con-  
stable, &c.

Otherwise  
against  
Magistrate.

Amends may  
be tendered.

And tender  
may be  
pleaded.

If insuffi-  
cient, De-  
fendant may  
afterwards  
pay Money  
into Court.

And where the action is intended to be brought against any constable, headborough, or other officer, or any person acting by his order or direction, or in his aid for any act done by him, in obedience to any warrant under the hand and seal of any magistrate (*s*), it is necessary to make a demand *in writing*, of the perusal and copy of any such warrant, which demand must be signed by the party making the same, or by his attorney (*t*); and the same must be served personally on the defendant, or left at his dwelling-house, or usual place of abode by the plaintiff, or his attorney or agent; and if the perusal of the warrant, or a copy thereof, be not granted within six days from the day of the demand being made, or before the commencement of the action (*u*), the plaintiff may bring his action against such constable or other officer; but if a perusal and copy thereof be granted, as before mentioned, the action should be brought against the magistrate signing the warrant.

A magistrate may tender amends before the action is commenced (*x*), and may plead such tender; or if he has neglected to tender amends, or if he consider such tender insufficient, he may afterwards, even after notice of trial is given, pay money into court (*y*), and the subsequent proceedings are then the same as in other cases (*z*).

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| ( <i>p</i> ) 7 Taunt. 63.                | 3 B. & A. 330.                           |
| ( <i>q</i> ) 3 B. & P. 551. 6 Esp. 138.  | ( <i>t</i> ) 2 B. & P. 42.               |
| ( <i>r</i> ) 7 T. R. 635. 3 B. & P. 553. | ( <i>u</i> ) 5 East. 445.                |
| ( <i>s</i> ) See 2 B. & P. 158. 3 Esp.   | ( <i>x</i> ) 24 Geo. II. c. 44. s. 2. 4. |
| 96. 226. 3 Burr. 1742. 5 East.           | ( <i>y</i> ) 3 B. & C. 159. 7 Taunt. 33. |
| 233. 2 Esp. 522. n. 1 Str. 446.          | ( <i>z</i> ) 2 W. Bl. 859. 6 Esp. 134.   |
| 2 M. & S. 259. 1 B. & A. 227.            | 1 H. Bl. 344.                            |

## *Actions against Magistrates, &c.* 61

In actions against officers of the customs or excise, the time for the commencement thereof is restricted to three months after the cause of action has accrued (*a*): and before any action can be commenced against any such officer, or against any person acting by his orders, direction, or in his aid (*b*), for any act committed by him in the execution of his duty (*c*), or arising out of the execution of his duty, one calendar month's notice at the least (*d*) must be given; and the same must either be served personally, or left at the dwelling-house or usual place of abode of the defendant; and such notice must contain, clearly and explicitly, the cause and nature of the action, and the names and place of abode of the plaintiff and of his attorney or agent (*e*).

Actions against Officers of Customs and Excise, limited to three months. Notice of Action to be given.

How to be served.

What it must contain.

By the statute 6 Geo. IV., c. 108, s. 97, all actions against any officer of the army, navy, marines, customs, or excise, or against any person acting under the direction of the commissioners of customs, for any thing done in the execution of or by reason of his office, must be commenced within six months next after the cause of action may have arisen, and not afterwards; but as the statute 28 Geo. III., c. 37, is not repealed by the above act, all actions against the officers of the customs or excise, for any acts committed in their official characters, must be commenced within three months.

Actions against Officers in the Army, Navy, &c.

Must be commenced within six months.

But against Officers of Customs or Excise, limited to three months.

In actions also against bodies corporate, or companies, the time for commencing thereof is, in many instances, limited to certain periods according to the acts of parliament regulating the same; as for instance, against the

Actions against Bodies Corporate or Companies, limited to certain periods.

(*a*) 28 Geo. II., c. 37. 2 East, 254. 1 K. Bl. 14.  
(*b*) 2 Smith, 220. 4 T. R. 485, 553. 2 East, 122. 3 Taunt. 127.

(*c*) 5 T. R. 1. 1 B. & P. 187.  
(*d*) 3 T. R. 623.  
(*e*) 28 Geo. III. c. 27, s. 25.

West India Dock Company, London Dock Company, limited to six months.

General highway Turnpike Acts, &c. limited to three months.

Against Commissioners of Taxes, limited to three months.

The like against Commissioners of Bankrupts.

West India Dock Company (*f*), and London Dock Company (*g*), actions against their treasurer must be commenced within six calendar months after the act committed; also, by the general highway (*h*), turnpike (*i*), and building acts, actions must be brought within three months; and for acts done by or under the management of the commissioners of taxes, the period is limited to three months. The like period is fixed for commissioners acting under the bankrupt act, and actions against the hundred are limited also to three calendar months (*k*).

#### INFANTS.

Infants must sue by *prochein ami*, or Guardian. Must defend by Guardian. Petition to the Chief Baron must be presented.

Consent of Guardian, &c. must be verified.

Baron's order granted.

The Parent usually nominated. But if he is a witness in

If a plaintiff be under age, an order to sue by *prochein ami*, or guardian, must be obtained. If the defendant be under age, he must have an order to defend by guardian (*l*). The order is obtained by a petition to the Chief Baron, stating the nature of the action, accompanied by a consent, signed by the next friend or guardian; both of which must be verified by the affidavit of some third person that the petition and consent had been duly signed; or the next friend or guardian may appear personally with the infant at the baron's chambers, and there give his consent; and thereupon a baron's order will be granted.

It is usual for the father of the infant to be nominated; but if it is necessary he should give evidence as a witness

(*f*) 39 Geo. III. c. 49, s. 184; and see 5 Taunt. 534.

(*g*) 39 & 40 Geo. III. c. 47, s. 151; and see 1 Ry. & M. 161. 1 Cas. & P. 541, S. C.

(*h*) 13 Geo. III. c. 78, s. 2.

(*i*) 13 Geo. III. c. 84, s. 85.

(*k*) See Tidd, Pr. 19 and following pages.

(*l*) Co. Lit. 1356. 2 Inst. 361, 390. F. N. B. 27. 2 Wms. Saund. 5 Ed. 117, f.

in the cause, the court will appoint some other person, with the consent of the father (*m*). the cause, another person should be appointed.

Where an infant plaintiff sues as co-executor with others, the executors of full age may appoint an attorney for themselves and for the infant (*n*). Infant co-Executor Plaintiff. Co-Executors may name an Attorney for all.

The plaintiff should take care, in case the defendant be an infant, that he appear by guardian or next friend, otherwise it is good ground for error (*o*); but if the defendant obtain a verdict, or judgment, though he appears by attorney and not by guardian, it is not error (*p*); and an infant, sued as co-executor with others, must appear by guardian (*q*); and an appearance, *sec. stat.* cannot be entered for him, although he be sued jointly with others (*r*). Defendant must appear by Guardian. Otherwise error may be assigned.

If an infant do not appear by guardian, the plaintiff should apply to him to name one; and in default thereof he must apply to the court, on affidavit, for an order to compel him (*s*); it is too late after judgment, or error brought (*t*). Infant sued with co-Executors must defend by Guardian, and an appearance, sec. stat. cannot be entered for him.

If an infant do not appear by guardian, the plaintiff should apply to him to name one; and in default thereof he must apply to the court, on affidavit, for an order to compel him (*s*); it is too late after judgment, or error brought (*t*). If Infant do not appear by Guardian, Plaintiff should obtain order to name one.

In actions against husband and wife, the wife being under age, it seems necessary that she should appear by guardian. Actions against Baron and Feme—if Feme under age, must appear by Guardian.

The order for admission should be obtained previous to the declaration, and a copy thereof should be annexed thereto or the defendant is not bound to plead thereto; and if required, the plaintiff's attorney is bound to state to the defendant's attorney the residence of the Order to sue must be obtained previous to Declaration. Residence of Guardian must be given, if required.

(*m*) 1 D. & R. 13.

P. 596.

(*n*) Foxwith and others executors, v. Tremaine, 2 Saund. 212, 213, 6.

(*q*) Fuscaboldi v. Kinaston, 2 Str. 784.

(*o*) Sedborough v. Grant, Cro. Eliz. 569. Ord v Moreton, Yelv. 211. Gladman v. Bareman, Bar. 418, 413. 2 Wms. Saund. 5. Ed. 212.

(*r*) Bligh v. Minster and others. (*s*) Shipman v. Stevens, 2 Wils. 50. Gladman v. Bateman, Barnes, 418.

(*p*) 21 Jac. I. C. 13. Imp. P. C.

(*t*) 1 D'Anv. Abr. 602



Order to defend by Guardian must be obtained before appearance.

If appearance entered without an order, an order may be obtained to strike it out.  
And set aside Plea.

Application should be made to Defendant to appoint a Guardian.

Infant ought not to be arrested. But if arrested, must plead in abatement.

Admission will only be good in the Actions specified therein.

guardian or next friend (*u*). It is sufficient if the order be obtained any time previous to declaration (*w*); or if there should be an order to defend by guardian, the same should be obtained before appearing, and a copy should be annexed to the plea. If the defendant appears, and pleads by attorney instead of by guardian, the plaintiff should obtain a baron's order to strike out the appearance, and set aside the plea (*x*); and the order should direct him to appear by guardian within a time therein mentioned (usually *four* or *six* days), and that in case defendant should make default in so appearing (within the time) that the plaintiff may name a guardian to appear and defend for him (*y*); or if the defendant should not appear at all, the plaintiff's attorney should apply to the defendant to name a guardian; and if he does not do so, he should apply in like manner to be at liberty to name a guardian to appear for him (*z*). If the defendant does not appoint a guardian and appear, the plaintiff should make an affidavit of service of the order, and the judge will thereupon make the order absolute; an admission may then be drawn up and filed (*a*).

An infant ought not to be holden to bail when the plea of infancy may be pleaded in bar to the action; but it seems the court will not discharge a defendant on the ground of infancy, but will leave him to take advantage of it by plea or evidence (*b*).

A special admission to prosecute, or defend by *prochein ami*, or guardian, does not operate as an authority to

(*u*) 1 Str. 304. 1 Wils. 246.

(*w*) Imp. P. 597.

(*x*) Stone v. Atwell, 2 Str. 1076.

Hindmarsh v. Chandler, 7 Taunt. 488.

(*y*) Barnes, 413, 18. 7 Taunt.

408. 1 Moore, 250, S. C.

(*z*) 2 Wils. 50. 2 Str. 1076.

(*a*) Stone v. Atwell, 2 Str. 1076.

(*b*) Maddox v. Eden, 1 B. & P. 480.

prosecute or defend in any but the particular action or actions specified in such admission (c).

An infant plaintiff cannot be compelled to give security for costs on the ground of the insolvency of the *prochein ami* (d); and the latter only is subject to the payment of costs (e). Where, however, an infant plaintiff was taken upon a *ca. sa.* for costs, the court refused to discharge him on motion (f); and costs are payable by an infant defendant (g).

Infant not compellable to give security for costs.  
And not subject to costs as Plaintiff.  
An Infant taken on a *ca. sa.*  
Infant Defendant subject to costs.

PAUPERS.

In this court, if a person will make an affidavit that he is not worth five pounds in the world, exclusive of wearing apparel, and except the property in dispute, a baron will, on petition, grant him an order to sue in *forma pauperis*: he must also obtain and produce counsel's opinion, stating that he has good ground of action, and there must also be a consent to act as his counsel and the consent of an attorney to conduct the cause. It is absolutely necessary that the affidavit and opinion of counsel should state that the pauper has *merits*; it is not sufficient to state that he has a ground of action, but it must be a *meritorious* cause of action; and if it turn out after obtaining the order that it is not a meritorious cause of action, the court will rescind the order. It is necessary however to make the baron's order a rule of court, before making a motion to discharge it (h).

Paupers.  
May obtain an order to sue in *forma pauperis*.  
Counsel's opinion must be obtained.  
With consent to act as counsel.  
And consent of Attorney.  
Must have a meritorious cause of action.  
If not meritorious order may be rescinded.  
But must first be made a Rule of Court.

The order may be obtained either at the commencement Order may be obtained at

- (c) R. G. H. T. 2 Will. IV. (f) 2 Str. 1217. 13 East, 6  
(d) 1 Marsh, 4; and see 2 Chit. Barnes, 183. B. & P. 480.  
R. 359. (g) Dyer, 104. 1 Bulst. 189. 2  
(e) Cro. Eliz. 83. 1 Str. 548. 2 Str. Str. 1217.  
708. (h) 1 Y. & I. 10.

commence-  
ment or du-  
ring progress  
of Writ.

of the suit or afterwards, during the progress of the cause (i) ; but as regards the fees, &c. it will only have effect from the date thereof. The attorney or his clerk must attend at the baron's chambers to obtain the order (k).

Not liable to  
payment of  
Fees.

After obtaining the order the pauper is at liberty to proceed in his action without the payment of office fees, or fees to counsel, unless he obtain a verdict for more than

If he recover  
more than *5l.*  
Must pay  
Fees.

*five pounds* ; in that case, the officer's fees for passing the record, &c. must be paid before the attorney can tax his costs : and in such a case he is entitled to costs from the defendant (l).

Not liable to  
Defendant's  
costs.

If the pauper be nonsuited, or a verdict be obtained against him, he is not liable to pay the defendant's costs (m).

If he omits  
to proceed to  
trial, Defen-  
dant may  
move for  
judgment.

When a pauper omits to proceed to trial pursuant to notice, or an undertaking to try at a particular period, he may be called upon by rule to show cause why he should not pay costs, although he has not been dispaupered (n). And if the pauper's conduct should appear to have been vexatious the court will stay proceedings in a second action until costs of a first action are paid ; but not unless his conduct appears to have been improper or vexatious (o) : nor will the court order the costs of a first trial to be deducted, or set off against the costs of a second action (p).

If Pauper's  
conduct  
vexatious.

Ejectment.

In a case of ejectment, the court refused to stay proceedings in the second action until the costs of a prior action had been paid, though it was determined the pauper

(i) Say. Costs, 90. 3 Wils. 24.  
M'Clel. & I. 282.

(n) R. G. H. T. 2 Will. IV.

(k) R. G. E. T. 3 Geo. I.

(o) 2 Str. 878, 1121. 3 Wils. 24,

but see 2 Durnf. & E. 54.

(l) 1 B. & P. 39.

(p) 2 Str. 891.

(m) 23 Hen. VIII. c. 15.

should not be allowed to sue in *formâ pauperis* in the second action (q).

A pauper cannot bring an action for penalties, it not being within the statute of 11 Hen. VII. c. 12. Cannot bring an action for Penalties.

There was a case in which a defendant brought into court the sum of *sixteen shillings*; upon the trial, the defendant obtained a verdict; the plaintiff afterwards moved to have the sixteen shillings paid out of court to him, though the verdict was against him, which was ordered accordingly. Had the plaintiff not been a pauper the defendant would have been entitled to the sixteen shillings towards his costs (r).

If a stranger carries on a suit in the name of another person who has a title, yet is so poor that he cannot pay costs, and in case he fails, the court will, on application by affidavit, order such person who carries on the suit to pay costs to the defendant (s). If a stranger brings an action in name of a Pauper. Liable to costs.

It has been said a *defendant* may in this court obtain an order to *defend* in *formâ pauperis* (t), but it does not appear where such authority is to be found. In the other common law courts it cannot be done (u). A Defendant cannot defend in forma pauperis.

(q) Tidd, P. 99.

(t) Carringt. Rules, 31.

(r) Lee v. Holland. 1 Burt. 173.

(u) Tidd, Pr. 97.

(s) 1 Burt, 206.

## BOOK V.

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### APPEARANCE ON A WRIT OF SUMMONS.

**Appearance  
on Writ of  
Summons.**

**For a Peer,  
M. P., &c.**

**In eight days.  
How  
reckoned.**

**A Præcipe  
must be filed.**

**Appearance,  
sec. stat.**

IF the defendant has been personally served with a copy of the writ of summons, with the addition of the usual and proper notice and indorsements (whether he be a peer, member of the House of Commons, or otherwise), he must appear within eight days from such service: the eight days are reckoned, inclusive: if therefore the defendant is served on the *tenth* day of the month he has the whole of the *seventeenth* day to appear, unless the last day happen to be a Sunday, Christmas Day, Holy Thursday, Good Friday, or days appointed for thanksgiving or fasts; in which case the defendant has until the day following to appear: or if the last of such eight days happen to fall on any day between the Thursday before and the Wednesday after Easter Day, then, in every such case the Wednesday after Easter Day is to be considered the last of the eight days; and it will be sufficient if the defendant appear on that day. On entering the appearance a præcipe must be filed with the filazer, and must contain the names of the parties, and the address of the defendant's attorney or agent.

If the defendant does not so appear the plaintiff may, on filing a proper affidavit of service, enter an appearance for him, and proceed to judgment and execution; such appearance however must be entered before the cause

## *Appearance on a Writ of Summons.* 69

is out of court. (In the King's Bench it must be entered within the term next after the return of the writ, or the vacation ensuing; if entered after that time it is irregular, and the proceedings may be set aside) (a). The filazer cannot enter an appearance for the defendant at the instance of the plaintiff without an affidavit of the due service of the process.

A præcipe containing the names of the parties, and the name and address of the attorney or agent, must also in this case be filed. A Præcipe must also be filed.

If the defendant has not been personally served with the writ of summons as before mentioned, but a copy of the same has been left at his dwelling-house according to the practice prescribed, and hereinbefore more particularly set forth under the title of "Distringas," he must (in case he wishes to avoid the expense of the plaintiff's proceeding to obtain a writ of distringas, and the execution thereof), appear within the eight days (to be reckoned as before) from the day of the service of the writ of summons. And if an attorney undertakes to appear for a defendant, the court will afterwards make him do so, provided the undertaking be in writing, but not otherwise (b). On non personal service. But Copy duly served at Defendant's dwelling house. Defendant must appear. If attorney undertakes.

If a member of the House of Commons be sued under the statute of 6 Geo. IV. c. 16 (*relating to bankrupts*), he has one month to appear to the process, the first and last days to be reckoned in like manner. Appearance by an M. P. under stat. 6 Geo. IV. c. 16.

In an action against baron and feme, if the baron be served with process he must appear for himself and wife (c). Baron and Feme.

It should be observed, that in no case can judgment be signed unless an appearance be entered, by, or for the defendant. Whether therefore a judgment is to be No judgment can be signed without appearance being entered.

(a) Bugden v. Bunn. 10 B. & C. 457.

(b) 1 Burt, 110.  
(c) 1 Burt, 109.

## 70      *Appearance on a Writ of Capias.*

signed upon a warrant of attorney, on *nil dicit*, or *non sum informatus*, an appearance must be entered.

### APPEARANCE ON A WRIT OF DISTRINGAS.

Appearance  
on a Writ of  
Distringas.

Must be in  
eight days.

If sheriff re-  
turns "non  
est inventus"  
and "nulla  
bona," appli-  
cation should  
be made to  
enter appear-  
ance, *sec stat.*

If the writ of distringas has been duly executed and a proper notice as prescribed by the statute duly given to the defendant, he must enter an appearance within eight days from the execution of such writ and notice: the eight days are of course to be reckoned as in other cases; and a *præcipe* must be filed with the filazer.

If the officer has been unable to levy the issues according to the distringas, and unable to give notice to the defendant personally or otherwise, and if *non est inventus* and *nulla bona* be returned by the sheriff to the writ, and if the plaintiff doth not intend to proceed to outlawry or waiver, and if the defendant should not appear within the eight days, and if it be shown to the satisfaction of the court or a baron on affidavit, that due and proper means have been taken and used to serve and execute the writ, or that the defendant has in some way or other received knowledge of the proceedings against him, a rule or order may be obtained by the plaintiff for leave to enter an appearance for the defendant, and he may then enter such appearance, and proceed to judgment and execution accordingly (*d*).

If the writ of distringas has been properly executed, and the defendant does not appear, the plaintiff may appear for him upon the writ being returned by the sheriff, with an affidavit by the officer of the due execution thereof.

### APPEARANCE ON A WRIT OF CAPIAS.

Appearance  
on a Writ of  
Capias.

If a writ of capias has been issued against more than

(*d*) 2 Will. IV. c. 39, s. 3.

one defendant, and the sheriff should have been directed to serve any defendant with a copy thereof, according to the statute of 2 Will. IV. c. 39, and the sheriff should serve such defendant accordingly, and such defendant should not enter a common appearance to such writ in due time, the plaintiff may enter an appearance for him, and proceed to judgment and execution: the time for the defendant's application in such case is the same as in other cases, viz., eight days; to be calculated as before mentioned. An affidavit of service of the writ by the sheriff's officer must be filed, and the writ returned.

If Defendant served with Copy process instead of arrested.

Appearance, sec. stat.

Eight days to appear.

SPECIAL BAIL.

The defendant upon being arrested on the writ of *capias* must either give a bail bond to the sheriff or deposit in his hands the amount of the debt sworn to, and 10*l.* to answer costs (*e*), or must remain in custody, or he may give a bail bond before he is arrested, or without being arrested (*f*). An undertaking by an attorney to the sheriff to give a bail bond is contrary to the statute (*g*), and is void (*h*).

Special Bail on a Writ of *Capias*.

Bail Bond, or Deposit.

Attornies undertaking to give a Bail Bond, void.

The *capias* being returnable immediately on its being executed by the sheriff, the defendant, whether residing in London or Middlesex, or in the country, has eight days time to put in special bail (*i*): and the days, as regard the first and last, are reckoned in the same manner as on entering a common appearance. Special bail may be put in on a *dies non*, provided it be not a Sunday (*k*).

Eight days time.

How reckoned.

(*e*) 43 Geo. III. c. 46.

P. 353.

(*f*) 1 Str. 444, 643. 2 C. & P. 503, 605. 1 B. & A. 223.

(*i*) 2 Will. IV. c. 39, s. 1 & schedule.

(*g*) 23 Hen. VI. c. 10.

(*k*) 5 T. R. 170.

(*h*) *Lewis v. Knight*. 6 Moore &



**Town Bail.** If the bail reside in town, or within the bills of mortality, that is to say, within ten miles of London (*l*), a bail piece must be filled up in the proper form, and the bail must attend personally in court, or before a baron at chambers, and enter into the usual recognizance; *the bail piece must be signed by the bail.*

Must attend  
in person,  
And sign the  
Bail Piece.

**Country Bail.** If the bail reside more than ten miles from London they must appear before a commissioner for taking special bail in the country, and there must be the usual affidavits of caption and justification: the commissioner is bound to keep a book for the entry of all special bails taken before him, and which book may be inspected by the plaintiff's attorney (*m*).

Commis-  
sioner's book  
may be  
searched.

Bail must  
sign the Bail  
Piece.

In such, and indeed in all cases, *the bail must sign the bail piece (n)*. Special bail may also be put in before a judge of assize (*o*).

Requisites  
of Bail Piece.

The bail piece must be entitled in the court in which the action is brought (*p*), and must state the term in which the bail is put in; also the county the same as in the writ; and the christian and surnames of the parties (*q*) must be stated correctly, and also the sum sworn to.

If the names of the bail have been given in the original notice of bail the same need not after exception be mentioned in the notice of justification served; but it is sufficient to describe them as the bail of whom the plaintiff has before had notice (*r*).

Country Bail  
Piece must  
be allowed by  
a Baron,

Country bail must be allowed by a baron, for which *eleven shillings* is paid. The bail pieces and affidavits of caption must in all cases after allowance by the baron be left with the filazer, who now receives the fees hereto-

And left with  
the Filazer.

(*l*) 1 Burt, 123.

(*m*) 1 Burt, 128.

(*n*) 1 Burt, 124.

(*o*) 1 Burt, 122, 141.

(*p*) Hall's Bail. 1 Ch. 79.

(*q*) 1 Ch. 351.

(*r*) Richardson v. Millick. 9 Moore, 579.

fore paid to the master and sworn clerks, making together *eight shillings and four-pence*. The bail pieces must afterwards be filed by the filazer. Fees.

If a defendant usually resides in the country, but is arrested in town, he may justify bail by affidavit (*s*).

The bail are only liable to the sum sworn to and costs of the original action (not exceeding in the whole the amount of their recognizance) (*t*), and to the costs of the proceedings against themselves, if sued on their recognizance (*u*). The bail to the action are not liable to costs in error; nor were the bail formerly liable on their recognizance for any cause of action not stated in the affidavit upon which the defendant might have been held to bail (*w*); as where the *ac etiam* in the writ was "*in case on promises*" but the declaration "*in debt*," it was considered sufficient ground to discharge a defendant out of custody on filing common bail, the sum for which the bail bond being taken exceeding 40*l.* (*x*); but now, where there may be a variance between the *ac etiam* and the declaration, or the want of an *ac etiam*, when the defendant is arrested, it is not deemed ground for discharging the defendant, or the bail, but the bail bond or recognizance of bail may be taken with a penalty or sum of 40*l.* only (*y*).

If Defendant resides in the country but arrested in town.

Bail only liable to sum sworn to and costs.

Not exceeding recognizance.

Bail in the action not liable to costs in error.

Formerly not liable where cause of action mis-stated.

Now liable in 40*l.*

It would seem, however, that advantage of such irregularity in the latter case cannot be taken until the declaration has been filed or delivered (*z*); in which case it appears to be necessary for the defendant to apply to

Time for applying thereon.

- (*s*) White v. Thomas. 5 Price, Taunt. 304.  
 13. (*x*) Mayfield v. Davison. 10 B. & C. 223.  
 (*t*) R. G. H. T. 2 Will. IV.  
 (*u*) R. G. H. T. 38 Geo. III. (*y*) R. G. H. T. 2 Will. IV.  
 8 Price, 502. (*z*) Naylor v. Eager. 2 Y. & I.  
 (*w*) Wheelwright v. Jutting. 7 90.

How appli-  
cation should  
be made.

Bail above,  
not liable  
beyond  
penalty.

Amount of  
Bail.

If Debt  
1000*l*.

For what the  
Bail must  
justify.

May be more  
than two  
Bail.

Must be  
Freeholders  
or House-  
keepers.

What persons  
cannot be-  
come Bail.

the court: this cannot very well be done before a bail bond is given, nor is it very likely that such an irregularity would be discovered previously thereto; the motion should therefore be that the bail bond may only stand as a security for the sum limited by the rule: but if special bail is to be put in, the motion should be made previous thereto, and that the bail may be permitted to enter into a recognizance to that amount only; otherwise it might possibly be considered by the court, that in putting in bail to the full amount, any irregularity (as regards the *ac etiam*) had been waived: nor are the bail liable beyond the penalty, although the bond has been ordered to stand as a security, and the plaintiff has recovered a verdict and judgment for a larger sum (*a*). The amount of bail must be double the sum sworn to in the affidavit of debt where such sum does not exceed 1000*l*. If above that sum, 1000*l*. in addition thereto is sufficient (*b*). The bail must, however, not only justify to the amount mentioned above, but must swear they are *worth* so much over and above their just debts, and also over and above every other sum for which they are bail in any other action for the same defendant, or for any other defendant (*c*).

If the sum is large there may be three or more bail, making up together the amount for which the defendant should put in bail (*d*), but in such case the leave of the court or a baron must be obtained (*e*). The bail must be either freeholders or householders, unless the plaintiff choose to waive that qualification (*f*). No peer (*g*),

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|--|---|
| ( <i>a</i> ) 2 Smith, R. 354.              | R. G. H. T. 2 Will. IV.                   |
| ( <i>b</i> ) R. G. M. T. 51 Geo. III.      | ( <i>f</i> ) Sagger v. Gordon. 5 Taunt.   |
| ( <i>c</i> ) R. G. H. T. 2 Will. IV.       | 174.                                      |
| ( <i>d</i> ) De Tastel v. Kroger, Whightw. | ( <i>g</i> ) Burton v. Atherton. 2 Marsh, |
| 110. Smith v. Trinder.                     | 232.                                      |
| ( <i>e</i> ) Anon. 3 Price, 448, see also  |   |

member of the House of Commons (*h*), nor servant in his Majesty's household (*i*), nor any attorney (*k*), or attorney's clerk (*l*), nor sheriff's officer (*m*), nor any uncertificated bankrupt (*n*), nor such as have been twice bankrupt and not paid fifteen shillings in the pound under the second commission (*o*), nor insolvent debtors discharged under an insolvent act (*p*), can become bail if objected to: nor will bail be permitted to justify who are in arrear for the King's taxes; nor can a person being a housekeeper in Scotland usually living in lodgings in London for six months in the year, be admissible as special bail (*q*). Bankruptcy, where the party has obtained his certificate, is not in general an objection, unless connected with other circumstances, such as no dividend having been paid, &c.

It is also an objection to bail that they have been indemnified by the defendant's attorney (*r*), or that they have received a commission for attending (*s*); an indemnity by the sheriff's officer (*t*), or by a third person, does not however appear to be an objection (*u*), nor is it an objection that the parties become bail at the request of the defendant's attorney (*v*).

If an attorney or any clerk to an attorney become special bail the plaintiff may treat the bail as a nullity,

Objection to Bail.

An Attorney or his Clerk cannot be Bail. May be treated as a nullity.

(*h*) *Duncan v. Hill*, 1 D. & R. 127. n.

(*i*) *Anon. Ib.*

(*k*) *Boulogne v. Vantrin*, 2 Doug. 467. *Laing v. Cundell*, 1 H. Bl.

76. *Mann v. Nottage*, 1 Y. & I. 367, & see *R. G. H. T.* 2 Will. IV.

(*l*) *Stoneham v. Pink*, 3 Price, 263.

(*m*) *Bolland v. Pritchard*, 2 W. Bl. 799.

(*n*) 1 Chit. R. 9.

(*o*) *Mountain v. Williams*, M. 21 Geo. III. K. B. 1 Chit. R. 293.

(*p*) 1 Chil. R. 9. & sec. Ib. 143.

(*q*) 11 Price, 158.

(*r*) 1 B. & P. 103.

(*s*) *Foxhall's bail*, 7 D. & R. 783.

(*t*) 1 Chit. R. 714.

(*u*) 1 B. & P. 21.

(*v*) *Hunt v. Blacquire*, 4 Bing. 588.

and sue upon the bail bond as soon as the time for putting in special bail has expired, unless good bail be put in, in the mean time (*w*).

Whether, if an Attorney or his Clerk become Bail by consent, they can afterwards be sued on their recognizance.

Previous to the rule of court of Hilary Term, 2 Will.

IV. if an attorney or his clerk were suffered to become bail they might have been sued upon their recognizance; and if the plaintiff excepted to them he could not treat them as a nullity; and if such persons therefore became bail, and justified without opposition, they became good bail (*x*). The rule above referred to, says, "the plaintiff *may* treat them as a *nullity*," but it does not appear compulsory on him so to do; if therefore they are permitted to become bail, it may perhaps be considered that they are still liable to be sued on their recognizance; and before the above-mentioned rule, when an attorney was defendant, his clerk might become bail for him (*y*); it seems, however, the above rule must be considered as preventing the clerk in such a case (if objected to) becoming bail, the rule being general.

May be Bail for the purpose of render.

An attorney or his clerk may, however, be bail for the purpose of rendering a defendant (*z*), and rejected bail (before their names are struck out of the bail piece) may render the defendant (*a*).

When Country Bail must be transmitted and allowed.

In the case of country bail the bail piece must be transmitted and allowed by a baron, and filed within eight days, unless the defendant reside more than forty miles from London, and in that case within fifteen days from the taking thereof (*b*).

(*w*) R. G. H. T. 2 Will. IV.

1180, & see R. G. H. T. 2 Will. IV.

(*x*) Bell v. Scott, 1 Taunt. 162.

(*y*) Dixon v. Edwards, 2 Anstr. 356.

(*a*) Same R. G.

(*b*) Ib.

(*z*) Johnson v. Trinder, 2 Bf. R.

On putting in special bail, if the declaration be filed, Declaration.  
the defendant may take the same out of the office, on  
payment of fourpence per folio (c).

The affidavit of justification of bail must be taken be- Before whom  
fore a commissioner appointed for taking special bail (d), affidavit of  
or before a judge of assize (e), but not before a com- Justification  
missioner for taking affidavits. The affidavit of caption must be  
must be taken before a commissioner for taking affida- taken.  
its (f), or before a judge of assize, but not before  
the commissioners for taking bail, otherwise they are  
irregular.

In all affidavits, made by more than one deponent, the Form, &c.  
names of all the deponents must be mentioned in the of affidavits.  
jurat (g); and there must be no erasure, nor interlinea-  
tion in the jurat (h); and if the affidavit be made by  
an illiterate person, it must be stated in the jurat, that  
the affidavit was read over and explained to him, before  
it was sworn, and that he appeared perfectly to under-  
stand the same (i), and that he made his mark in the  
commissioner's presence; and the place where the affi-  
davit is taken must be set out in the jurat (k); the resi-  
dence and addition also of every person making an affi-  
davit must be inserted therein (l). The affidavits should  
be written in a fair legible hand; the court having fre-  
quently animadverted upon, and rejected affidavits which  
have been much obliterated and altered, and the court

- |                                 |                                    |
|---------------------------------|------------------------------------|
| (c) R. G. M. T. 1 Will. IV.     | Price, 509. Houldon v. Fasson,     |
| (d) Anon. Y. & I. 101.          | 3 Moore & P. 559.                  |
| (e) 1 Burt. 141.                | (h) R. G. T. T. 1 Geo. IV. Batt    |
| (f) Salmon's bail, 1 M'Clel. &  | v. Vaisey, 1 Price, 16.            |
| I. 149.                         | (i) R. G. T. T. 1 Geo. IV.         |
| (g) R. G. T. T. 1 Geo. IV. Wel- | (k) Boyd v. Straker, 7 Price, 662. |
| lings and another v. Marsh, 11. | (l) R. G. H. T. 2 Will. IV.        |

has refused costs upon a rule where the affidavits were written in a cramped and slovenly manner (*m.*)

Notice of  
Bail.  
To whom  
given.

The notice of special bail must be given to the plaintiff's attorney or agent in town, and must contain the names in the cause (*n.*), and before what baron the same has been put in (*o.*). It is usual, upon giving notice of bail to give at the same time a copy of the affidavit of justification, which frequently prevents the bail being excepted to.

Requisites of  
notice.

The notice must be properly entitled (*p.*) in the court in which the action is brought, and must contain the christian and surnames of the plaintiff and defendant; and in addition to the descriptions of the bail, the notice must mention the street or place and number (*if any*), where each of the bail may reside, and all the streets or places and numbers (*if any*), in which each of them may have been resident, at any time within the last six months, and whether they are housekeepers or freeholders (*q.*).

As to the re-  
sidence of  
Bail for six  
months.

Difference in  
the decisions.  
In the Ex-  
chequer.

There has been a difference of opinion, and a contrary decision by different judges, with respect to the notice of the bail having been resident, &c. for six months. In this court it was held, that when the bail had been resident for six months, it was unnecessary to state it in the affirmative (*r.*); the decision of the King's Bench has, however, been different: the prudent course therefore is, if the bail have been resident for six months in the same place, so to state the fact in the notice.

In the King's  
Bench.

(*m.*) *Bane v. Jones*, 8 D. & R.  
114.

(*n.*) *R. v. Sheriff of Middlesex*,  
1 Chit. 742.

(*o.*) *Kelly v. Wrother*, 2 Chit. 81.

(*p.*) 1 Chit. R. 1.

(*q.*) *R. G. T. T.* 1 Will. IV.

(*r.*) *Fenton v. Warre*, 2 C. & I.  
54.

The bail are not discharged upon the defendants giving a *cognovit* at a period when the plaintiff would otherwise, in the due course of his proceedings, be entitled to final judgment (*s*).

Bail not discharged by *cognovit*, except, &c.

The bail to the sheriff could not heretofore put in special bail for the defendant before the return of the process, without the consent of the defendant (*t*); but as that writ is now returnable immediately on execution, this decision cannot now apply. But where special bail have been put in, and have omitted to justify, the sheriff may put in fresh bail and render the defendant, even after an attachment has issued against him for not bringing in the body (*w*); and where the defendant on being arrested gave bail to the sheriff for his appearance, but before the return of the writ, or putting in, and perfecting the bail above, was convicted of felony, and remained in criminal custody until the opinion of the Judges, on a point reserved was ascertained, the court, on payment of costs by the bail below, and putting the plaintiff in the same situation, as if bail alone had been put in within due time, allowed time for putting in and perfecting special bail; although the time for so doing had expired, when an application was made by the bail below to enlarge the time for perfecting special bail, or rendering the defendant (*x*).

Bail to the Sheriff cannot put in the Bail for Defendant before return of process.

But where Special Bail omitted to justify:

Where time has been given.

The court will frequently, on motion, order the bail bond to be given up to be cancelled, upon the defendant entering a common appearance, where there may be any irregularity in the arrest, or any insufficiency in the affi-

Bail bond will be ordered to be given up to be cancelled where any irregularity,

(*s*) *Rock v. Stevenson*, 9 B. & C. 707.

(*w*) *Hamilton v. Jones*, 4 M. & P. 454.

(*t*) *Birt v. Roberts, Moody & Mal.* 177. *Rex v. Hughes*, *Ib.*

(*x*) *Joyce v. Pratt*, 4 M. & P. 55.



but application must be made promptly.

If Defendant voluntarily gives a Bail Bond, cannot afterwards object to insufficiency of Affidavit.

If defendant arrested by a wrong name.

davits to hold the defendant to bail; but such applications must be made promptly, and before any fresh proceeding is taken after the irregularity has come to the knowledge of the party. If a defendant voluntarily gives a bail bond he cannot afterwards object to the insufficiency of the affidavit to hold him to bail; (*y*) nor after perfecting special bail (*z*).

If the defendant has been arrested by a wrong christian or surname the court will on application discharge the defendant out of custody, or order the bail bond to be given up to be cancelled (*a*), [but not where the name is *idem sonans*;] (*b*) provided application be made before the time for pleading in abatement expires (*c*), and before the defendant has appeared by putting in special bail (*d*). If, however, the defendant put in special bail by his right name, the plaintiff may proceed in the action, describing the defendant properly, and as being "sued as, &c." (*e*)

If the defendant puts in special bail in the name mentioned in the writ he cannot afterwards take advantage of the error; and the plaintiff may continue his proceedings against him by such name, however erroneous the same may be (*f*).

Special Bail cannot give evidence, nor the Wife of Bail,

Special bail cannot be a witness for the defendant on a trial; neither can the wife of the bail be so (*g*); if, therefore, it is necessary to have the bail as a witness, the bail

- (*y*) Norton v. Dansers, 7 T. R. Taunt. 115.  
 375. (*d*) 1 B. & P. 647. And see  
 (*z*) 1 B. & P. 132. 13 East, 273.  
 (*a*) 4 M. & S. 360. 2 Taunt. (*e*) 1 B. & B. 105, 645. 2  
 399. Wils. 393.  
 (*b*) 2 Taunt. 401. See 6 Taunt. (*f*) Willes, 462. Salk. 8.  
 115. (*g*) Cornish v. Pugh, 8 D. & R.  
 (*e*) 15 East, 159. And see 6 65.

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must be changed by a rule of court or a baron's order, before the trial; and which order is obtained upon an affidavit of the plaintiff, stating that such bail will be a material witness for him on the trial of the cause (i). In the first instance it is a rule to show cause, "why the bail should not be struck out of the bail piece, on adding and justifying another bail in his stead." If no sufficient cause be shown, the court, on an affidavit of service of the notice, will make the rule absolute; or if the bail is not changed, in order to render him competent, it may be done by the defendant depositing on the trial, in the hands of the officer of the court, a sum equal to the sum sworn to, and sufficient to cover the costs of the action; and by the judge making an order to strike the name of such bail out of the bail piece (k).

May be changed for that purpose.

Or deposit may be made on the trial.

### EXCEPTION TO AND JUSTIFICATION OF BAIL.

If the plaintiff is not satisfied with the special bail, of whom he may have received notice, he may except thereto; but must give a notice of such exception *in writing*, parole notice thereof being insufficient (l).

Exception to and justification of bail.

Notice of exception must be given.

The notice of exception must be given to the defendant's attorney or agent in town. It is not necessary in this court to enter the exception at the baron's chambers; but it must be entered in the filazer's book kept at the Exchequer office for that purpose.

Must be given to Defendant's Attorney or Agent.

Exception entered in the Filazer's book.

The bail cannot be excepted to after the expiration of twenty days from the time of the notice being given of bail being put in, or of being allowed by a baron (m). If,

Bail cannot be excepted to after twenty days.

(i) Anon. 2 Chit. 103.

B. & C. 389. 8 D. & Ry. 137, 140.

(k) Baillie v. Hole. Moody & M. 289.

(m) 1 Burt, 120. R. G. T. T. 26 & 27 Geo. II.

(l) R. v. Sheriff of Middlesex. 5

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Unless Sundays or holidays interfere.

however, the twentieth day happens to fall upon a Sunday, or a *dies non juridicus*, exception may be given the day after; so if it falls in the Easter holidays the Wednesday after Easter-day will, it is presumed, be reckoned the last day.

Bail must justify in four days.

Upon notice of exception being given, the defendant must justify his bail within four days from the service of such notice, and give due notice of his intention to justify.

And give two days' notice of justification.

The notice of justification required is two days, the days are reckoned, one inclusive, the other exclusive, unless the four days expire on the last day of term, in which case the bail must justify at the rising of the court; if

Last day of Term.

Assignment of bail bond.

they do not then justify, the plaintiff may take an assignment of the bail bond the same evening, and sue upon it (*n*); or he may move for an attachment against the sheriff at the rising of the court, if the rule to bring in the body has expired (*o*); Sunday intervening is no day; therefore notice on a Saturday for the Monday following is insufficient (*p*). When the bail are to justify in person

Or Attachment against the Sheriff.

Notice of justification of town bail must be given before eleven o'clock. Affidavit of notice.

the notice of justification must be served before *eleven* o'clock in the forenoon of the last day for giving notice (*q*); and all notices must be verified by affidavit, and the affidavit must state when, at what place, and in what manner the notice was served (*r*); and if the bail justify in person, the affidavit of service must state that the notice was so given before *eleven* o'clock, or no rule for allowance can be drawn up, whether the bail be opposed or not. If the last of the *four* days happen on a Sunday or other *dies non*, the bail have till the *fifth* day to justify.

If last day be a dies non.

(*n*) 8 T. R. 4.

(*o*) Archb. Pr. 72.

(*p*) Tidd, Pr. 260

(*q*) R. G. T. T. 59 Geo. III.

(*r*) 1 Chit. R. 43. 77, 8, 9, 100.

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All notices must be given before *nine* o'clock at night, otherwise they are irregular (*s*). All other notices must be given before nine o'clock at night

Notice must also be given to the filazer to have the bail piece in court at the time the bail are to justify. A copy of the rule for allowance should be served as soon as possible. Notice to the Filazer.

If bail are excepted to in vacation, or if there is not sufficient time within the term to justify in court, and the plaintiff should require the bail to justify at a baron's chambers, they must do so within four days, giving two days notice of justification in the usual course; otherwise they need not justify till the first day of the ensuing term. In the latter case, and indeed in all cases, it is sufficient if the notice of justification be given two days before the actual day allowed for justification (*t*). If bail excepted to in vacation. Must justify at Chambers, if required. Otherwise on the first day of the ensuing Term. Two days notice sufficient.

Bail put in by one attorney cannot justify by another attorney (*u*); and if the defendant changes his attorney without a baron's order, and gives notice of justification by a new attorney, it is irregular, and the plaintiff is not bound to accept the notice (*w*). And if there are added bail the same attorney must give notice of justification of the second bail, otherwise the bail cannot justify unless the attorney has been changed in the regular course in the mean time (*x*); but where the defendant's attorney refused to justify the second bail, the court permitted the bail to appear and justify on the notice of their own attorney (*y*); it would, however, be advisable in such cases to give notice of the circumstances to the opposite party. Same Attorney must justify. Unless changed by a Baron's order. If Defendant's Attorney refuses, the second bail may justify by their own Attorney.

(*s*) R. G. M. T. 1 Will. IV. & 1323.

H. T. 2 Will. IV.

(*x*) 1 Doug. 217. 2 W. Bl. 1323.

(*t*) R. G. H. T. 2 Will. IV.

6 Taunt. 532.

(*u*) Macpherson's bail, 2 Ch. 93.

(*y*) Hoggett v. Argent, 7 Taunt.

(*w*) Kaye v. De Mattos, 2 Bl. R. 47.

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Exonoretur should be entered on first bail piece.

Or bail may be sued.

If time has expired for putting in bail, the bail must justify, though no exception.

Notice of justification waives any irregularity in exception.

If bail do not appear pursuant to notice.

Cannot justify except on deposit sufficient to cover costs.

Amount of deposit.

Does not apply to country bail.

Bail must justify at sit-

Where there are added bail the court will, on application, order an *exonoretur* to be entered on the bail piece, as to the first bail, and which is necessary to be done or they may be sued on their recognizance (z); the added bail may be put in at Westminster on the morning of justification, but notice thereof must be given; *the added bail must sign the bail piece.*

If the regular time for putting in special bail has expired, the defendant in putting in special bail afterwards, must justify the same though no exception be entered; and the two days notice of justification must be given.

By giving notice of justification the defendant waives any irregularity in the notice of exception, or in the service thereof (a).

If after notice of justification being given the bail do not appear to justify, the court or baron will impose upon the defendant the payment of the costs (if any) occasioned by the *first* notice before they will be permitted to justify (b); and a sufficient sum must be deposited with the filazer to cover such costs. If there be any surplus of the deposit on taxation the same is returned to the defendant; and the amount of the costs as taxed is paid over by the filazer to the plaintiff. If two or more notices have been given a larger sum must be deposited with the filazer; the usual sum deposited on the first default is five pounds, and ten pounds on the second.— This, however, only applies to town bail, and not to country bail.

The bail must justify at the sitting of the court, and

(z) Say 58, 309.

(a) 1 H. Bl. 106.

(b) Barrow v. Whitehead, 2 Y.

& I. 2. Smith v. Cooper, 1 Tyr. 378.

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they are now regularly called on, in due order, by the filazer. One of the barons sits precisely at [or sometimes rather earlier] than ten o'clock, to take these and similar matters. Where there is no opposition the counsel's brief should be handed in to the filazer, and if any opposition is intended, notice thereof should be given by counsel to him. On the last day of term bail may justify at the rising of the court (c).

ting of the Court.  
Regularly called on by Filazer.

Last day of Term may justify at rising of the Court.

If the plaintiff declares in chief in the action, or demands a plea before special bail is perfected, it is a waiver of the justification of bail (d); but where time has been given to justify the bail without prejudice to the plaintiff's proceedings, it has been considered not to be a waiver thereof (e).

Declaration in chief, or demand of plea waives justification. Unless time given without prejudice.

When bail to the sheriff become bail to the action, the plaintiff may except to them though he has taken an assignment of the bail bond (f).

Bail may be exempted to, though bail bond assigned.

Affidavits of justification are insufficient, unless they state that each person justifying is *worth* the amount required by the practice of the courts, over and above what will pay his just debts, and over and above every other sum for which he is then bail in any action; and by a decision in this court, if he is not bail in any other court he must so state it in his affidavit \*.

Amount of the bail must swear they are worth, &c.

Where bail have been put in by the defendant and not perfected, the sheriff or his officer may put in and justify bail for his own indemnity, and no order to change the attorney is in such case necessary †.

If bail put in, but not perfected, Sheriff may put in bail without changing Attorney.

(c) Hopper and another v. Jacobs, 6 Taunt. 56.      (e) Rex v. Sheriff of Middlesex, 4 D. & R. 835. 1. Id. 163.

(d) Lister v. Wainhouse, Burr. 92. 1 Burr. 129.      (f) R. G. H. T. 2 Will. IV.

\* Gordon's bail, E. T. 2 Will. IV. M. 8.

† Hopkins v. Peacock, 5 Price, 553. 2 B. & A. 604.

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Bail may justify at time of putting in.

If time required to inquire after bail, plaintiff must give one day's notice.

Must state what time required.

Bail may justify at the time of their being put in, but in that case four days notice must be given for that purpose before eleven o'clock in the morning; the four days are exclusive of Sunday (*g*), and are reckoned the first day exclusive, the last inclusive; notice, therefore, for the 18th day of the month, must be given on the 14th. In such case, if the plaintiff is desirous of making inquiry into the sufficiency of the bail, he must give one day's notice, before the day appointed for justification, to the defendant, his attorney, or agent (as the case may be); and he must state therein what time is required for the inquiry; such time, however, must not exceed three days in the case of town bail, nor six days in the case of country bail: upon such notice being given (unless the court or a baron shall otherwise order), the time for putting in and justifying the bail are postponed accordingly, and all proceedings are in the mean time stayed (*h*). If the bail are put in court, the bail piece must be handed over to the filazer, that he may call the names in their turn; and it will save time in court, and inconvenience to the parties, if notice be given to the filazer the evening before, that their names may be put in the list of the day.

If notice of justification be accompanied by an affidavit as to property of bail. If plaintiff afterwards excepts, and fails, must pay costs, otherwise defendant must pay them.

If the notice of justification be accompanied by an affidavit of each of the bail, according to the form and effect of the rule made for that purpose (*i*), and if the plaintiff afterwards except to such bail, and if such bail be allowed, he must pay the costs of justification; and if such bail are rejected, the defendant must pay the costs thereof, unless the court or a baron order other-

(*g*) *Jenkins v. Matthey*, 2 C. & I. 124.

(*h*) R. G. T. T., 1 Will. IV.  
(*i*) *Ib.*

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wise. This rule appears to have been made with a view to regulate the costs of justifying bail, and to prevent unnecessary expense to parties: it is not, however, compulsory upon the defendant to produce such affidavit. Care, however, should be taken in serving a copy of the affidavit, and filing the original. In a case where the plaintiff was served with notice, and with copy affidavit of bail, which did not purport on the face of it to be a copy, or state where the original was filed, and the plaintiff afterwards excepted to them, it was held that he was not bound, on the allowance of the bail, to pay the costs of their justification (*k*.)

If the property mentioned and described in the affidavit is insufficient, but the bail justify in respect of other property, the plaintiff is entitled to the costs of opposition: and this appears reasonable, since the plaintiff might not have opposed if he had not been misled by the description or value of the property (*l*). If the affidavit is rejected on account of a deficiency in the form thereof, the court will exercise a discretion as to giving the costs to the plaintiff, though the defendant cannot in such case have his costs (*m*). The defendant is not in any case entitled to his costs, unless the copies of the affidavits are authenticated, by being annexed to the notice of bail, or refer to it, or unless they are referred to in the notice of bail. When the time for putting in bail has expired, and the notice of bail being put in is accompanied by the affidavit (*n*) as above mentioned, if the plaintiff does not give one day's notice of

If Plaintiff  
does not ex-  
cept, the  
affidavit  
sufficient  
justification.

(*k*) *West v. Williams*. 1 B. & A. 345.

(*l*) *Jackson's Bail*. DouL. P. C. 172. *Blake's Bail*. Id. 179

(*m*) *De Rhode's Bail*. E. T. 1832, MS. See *Jerv. R.* 31.

(*n*) *West v. Williams*. DouL. P. C. 162.



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exception to the bail by whom such affidavit shall have been made, the recognizance of such bail may be taken out of court, without other justification than such affidavit (*o*). There seems to have been some difference of opinion upon the rule in this respect, and some difficulty in understanding it; the above, however, seems to be the only case in which it would have any operation at all, except in the case of prisoners.

Bail cannot be changed without leave, except for a prisoner,

The bail put in, or of whom notice of putting in may have been given, cannot be changed without a rule of court, or a baron's order for that purpose (*p*), except in the case of a prisoner: this will not be granted except upon a sufficient reason being assigned, and then only upon payment of costs, and without prejudice to the plaintiff's proceedings (*q*): two days notice of justification of added bail must be given.

and on terms.

Time may be obtained on sufficient grounds.

The court, or a baron, will sometimes give time to the defendant to put in, or add, or justify his bail (*r*), where from some unforeseen circumstance the bail cannot attend the court, or under such circumstances as will warrant time being given, and where it does not appear that the application is made for delay; or, if there be any unintentional defect in the bail piece, or some technical informality in the affidavits, or notices of justification, the court will also sometimes in such cases give time (*s*).

One bail sometimes allowed to justify, and time given to the other.

In some cases, also, the court will allow one bail to justify, and give time for another to justify; but in all these cases, such terms will be imposed upon the de-

(*o*) R. G. T. T. 1 Will. IV.

(*r*) 1 Chit. R. 292. *Hamilton v.*

(*p*) R. G. T. T. 1 Will. IV.

*Dainsford.* 2 Chit. R. 82.

(*q*) *Whitehead v. Minn.* 2 C. &

(*s*) *Lofft.* 194.

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defendant as may to the court be considered reasonable; usually it is granted on payment of costs, and without prejudice to the plaintiff's proceedings.

It is no objection that added bail are put in before a commissioner in the country, the first bail being in Middlesex (*t*).

It is now frequently the practice, when time is given late in the term to the defendant to justify his bail, for the court to order, that he justify at a baron's chambers (*u*). Justification at Chambers.

An informality in the notice of bail, such notice not being an absolute nullity, will not justify the taking an assignment of the bail bond; advantage of such informality can only be taken at the time the bail attend to justify (*w*); and when bail are opposed by affidavit of facts as to their insufficiency, &c., it is usual for the court to give time to answer such affidavits: but the court will not in general allow fresh bail to justify in the mean time (*x*). An informality not a nullity.  
  
Time usually given to answer affidavits.

If a defendant is brought into court to be charged in execution he cannot justify special bail on the same day (*y*). Defendant brought up to be charged in execution cannot justify bail same day.

If bail are rejected the bail piece becomes a nullity, and if other bail are put in subsequently, a fresh notice of putting in and justification must be given (*z*), and a fresh recognizance entered into: but if bail enter into a recognizance and are excepted to, yet never appear to justify, they are still liable to be sued on their recogni- If Bail rejected Bail Piece a nullity, and fresh recognizance must be entered into. But the first Bail should be struck out of Bail Piece.

(*t*) *Moore, v. Kenrick.* 3 Bing, 603.

(*x*) *Ling's Bail.* 3 Moore & P. 576.

(*u*) *Bell v. Horton,* 11 Price, 741.

(*y*) *Bircham v. Chambers.* 11

(*w*) *Bell & others, Assignees v.*

*Moore,* 343.

*Forster & others.* 1 Moore & S. 518.

(*z*) 5 B. & A. 704. 1 D. & R. 350.

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zance (a); and they should therefore apply to the court or a baron to have their names struck out of the bail piece (b).

Rule for allowance should be served forthwith.

In all cases of justification it is necessary to serve the rule for allowance forthwith; for until the rule be served the bail is not perfected; and such rule must be served, although the plaintiff's attorney excepts to the bail, and is present when they justify (c).

If Plaintiff sues in person and residence unknown, rule for allowance may be served at the Exchequer Office.

If the plaintiff sues in person, and his residence is unknown to the defendant, and he is unable to ascertain the same, the court will order the affixing of the rule for allowance at the Exchequer Office, as service and notice of such rule (d).

If fraud or malpractice in obtaining Rule. It may be set aside.

If there be any fraud or malpractice in obtaining a rule of allowance, the court will on motion set the same aside; but unless such fraud or malpractice appears to have been committed with the privity of the defendant or his attorney, the court will not interfere to set aside the allowance (e). There is however a case in which the Court of Common Pleas set aside a rule for allowance on the ground of perjury, but it does not appear that any cause was shown against the rule (f).

Case where Rule was set aside.

If Bail are rejected in one action cannot justify in another.

If the bail are rejected in one action for insufficiency they will not be permitted to justify in another action.

### SPECIAL BAIL FOR A DEFENDANT IN CUSTODY.

A Prisoner may obtain

If the defendant be in custody, he may, whether in

(a) *Bramwell & another v. Farmer* 2 B. & P. 341. 4 Durnf. & E. 493. & another. 1 Taunt, 427. (d) *Ward v. Nethercote.* 7

(b) 4 Burr, 2127. 1 Wils. 337. Taunt, 145. Say, 58. 1 W. Bl. 462.

(e) 5 Taunt, 776.

(c) 4 T. R. 493. 2 D. & R. 436 (f) *Burling v. Waters.* 4 M. & 1 B. & C. 285. *Holland v. White.* P. 125.

## *Special Bail for a Defendant in Custody. 91*

term or vacation, obtain his discharge, pending the action, by putting in and perfecting special bail, on the usual notice, or by a deposit in court of the amount sworn to in the affidavit to hold to bail, and 20*l.* towards costs (*g*). Special bail may be given (*h*), or deposit made even after final judgment, but it must be before the defendant is charged in execution. Upon obtaining a rule of the allowance of bail, and for a supersedeas to issue, or upon a rule for the payment of the deposit into court with a supersedeas, the defendant may immediately obtain the supersedeas; and upon lodging the same with the gaoler he will forthwith be discharged. If the defendant be in the *Fleet* the rule for allowance is sufficient for his discharge, but if he be in the *King's Bench*, or in a *county gaol*, there must be a supersedeas. A *præcipe* for the supercedeas must be lodged in the office with the filazer, and the writ must be signed by the master.

his discharge on putting in Special Bail

Or by Deposit.

Even after final judgment.

If in the Fleet.  
If in King's Bench or County Gaol.

If the defendant has given a former notice of justification, and failed in justifying his bail, he is not permitted to justify his second bail until the costs of the first opposition be paid: but it is not necessary to obtain an order to charge the attorney (*i*).

If former notice of justification given.

Must pay Costs.

Attorney need not be charged.

The same bail who may have rendered the defendant cannot again become special bail without entering into a fresh recognizance, the first being discharged by the render (*k*).

Fresh Recognizance necessary.

Two days notice of putting in and justifying bail are sufficient, but in the notice and bail piece the defendant must be described as a prisoner, otherwise two days are insufficient. No exception is necessary, the defendant

Two days notice of justification sufficient.

No exception necessary.

(*g*) 7 & 8 Geo. IV. c. 71.

(*i*) *Keys v. Savernier*. 1 Ch. 291.

(*h*) M'Clel. 310. 13 Price, 560.

(*k*) 2 Chit. R. 76.

**Must justify  
in Court,  
except in  
vacation.**

being bound to justify his bail even though there be no exception. In term time the bail must justify in court unless a consent by the plaintiff be given to justify at chambers. In the vacation they may justify at chambers.

### RENDERING IN DISCHARGE OF BAIL.

**May be rendered in Court or before a Baron to the Fleet, or to the County Gaol. Rejected Bail may render.**

The defendant may be rendered in discharge of his bail, either in court or before a baron to the Fleet; or to the gaol of the county in which he was arrested (*l*). And though the bail are rejected in appearing to justify, they may nevertheless render the defendant (*m*) while their names remain on the bail piece.

**Form of  
Bail Piece.  
Notice of  
render.  
Exonoretur  
should be  
entered.**

The bail piece is filled up in the usual form, and notice of the defendant's render must forthwith be given to the plaintiff's attorney. An exonoretur may and should thereupon be entered on the bail piece, for until this be done the bail remain liable though the defendant be in prison (n). If no such exonoretur be entered, and the bail be sued on their recognizance, they must pay the costs of such proceedings, and of the application before an order for an exonoretur can be obtained, or the bail discharged (o).

**Or bail liable.**

**And must  
pay costs of  
proceedings  
against them**

**Notice of  
Bail merely  
to render not  
necessary.  
Bail to the  
sheriff cannot  
render  
defendant.**

**If special bail is put in merely for the purpose of rendering the defendant, it is not necessary to give notice of bail.**

The bail to the sheriff have no right to take the principal, and render him as special bail may do (*p*); but special bail may be put in by the defendant for the purpose of rendering him (*q*).

(1) Stat. 2 Geo. IV. & 1 Will. IV.  
c. 70, s. 21, 2.

(m) R. G. H. T., 2 Will. IV.

(n) 8 Mod. 282, 340. 5 T. R. 635. 1 Salk, 98.

(o) Say, 7. Barnes, 68.

(p) **Rex v. Hughes.** 3 Cas. & P.

**373.**

(q) Tidd Pr. 248.

## *Rendering in Discharge of Bail.*      93

Upon rendering the defendant in the country in the discharge of his bail a baron's order must be obtained (r). This is granted upon a statement on whose behalf the application is made, the state of the proceedings in the cause, and for what amount the defendant was held to bail, and by the sheriff of what county he was arrested; all of which facts must be stated in the order. The order must afterwards be lodged with the gaoler of the gaol of the county in which the defendant was arrested, and where he must also be rendered; on rendering the defendant a notice thereof, and a notice of the defendant being actually in custody thereon in writing, signed by the defendant or his bail, or one of them, or of the attorney, or agent of any or either of them, must be delivered to the plaintiff's attorney or agent: and thereupon the bail for the said defendant are exonerated without any exonoretur being entered on the bail piece (s).

Render of Defendant to a County Gaol. A Baron's Order necessary. How obtained.

To be lodged with the Gaoler.

Notice of render must be given.

Signed by the Bail or Attorney, &c.

Bail exonerated without any exonoretur being entered.

And if a defendant be in custody of the gaoler of the county gaol of any county in England or Wales, by virtue of any process issued out of any of the superior courts of record, he may be rendered in like manner in discharge of his bail in any action depending in this court: and thereupon the bail are exonerated from liability as such bail (t).

If Defendant be in a County Gaol.

He may be rendered therein in like manner. And Bail thereby exonerated.

Care, however, must be taken to give due notice of render in all cases where a defendant may be in custody in other actions; otherwise the bail bond may be as-signed (u). And if any proceedings are had thereon the bail must pay the costs before they can be relieved. And in cases other than those contemplated by the said act of

Due and proper notice must in all cases be given.

Or Bail must pay costs of any proceedings against them.

(r) 1 Will. IV. c. 70, s. 21. R. G. M. T., 1 Will. IV.

(t) Ib.

(u) Harding v. Hennam. 3 B.

(s) R. G. M. T., 1 Will. IV. & P. 232.

Exonoretur  
should be  
entered.

1 Will. IV. c. 70, s. 21, the bail should take care to have an exonoretur entered upon the bail piece, or the bail will remain liable (*w*): and can only obtain relief by an application to the court, and on payment of costs.

#### DEPOSIT IN LIU OF BAIL.

Defendant  
on being  
arrested may  
make deposit  
instead of  
giving Bail.

And must  
be paid into  
Court.  
When may  
be returned  
to Defendant.

When not.

When may  
be paid over  
to Plaintiff.

If Plaintiff  
goes on for a  
larger sum.

The defendant upon being arrested upon mesne process, instead of giving bail to the sheriff, may deposit with him the sum for which he is arrested, and 10*l.* towards the costs (*x*): and which must be brought into court forthwith by the sheriff, and paid over by him to the master. The defendant may have the same returned to him on perfecting special bail, or on being rendered, or upon a verdict, or judgment in his favour, by motion to the court upon notice and affidavit thereof.

But in a case where the bail was not perfected in due time, and money had been received by the sheriff in lieu of a bail bond, and by him paid into court, and a rule made for the same to be taken out by the plaintiff, the defendant afterwards rendering applied to the court to have the deposit returned to him, and there being no affidavit of merits, the court refused the application (*y*).

In case the bail should not be put in and perfected in due time, the plaintiff may move the court on affidavit, for a rule to show cause why the money should not be paid over to him in discharge of debt and costs, and if the plaintiff intends proceeding for a further sum, he may also move at the same time for liberty to enter a common appearance for the defendant. If no cause be shown, the plaintiff is entitled to a rule absolute on affidavit of

(*w*) 1 Salk, 78. 8 Mod. 282.

(*y*) *Newman v. Hodgson*, M.S.

(*x*) 43 Geo. III. c. 46.

service of notice. The 10*l.* deposited towards costs is subject to such deductions upon taxation of the plaintiff's costs, as well of the writ as of the application, as may be found reasonable. The plaintiff is not entitled to take the money out of court upon a render of the defendant.

Not payable to Plaintiff on render by Defendant.

In the King's Bench if the deposit be paid by a third person on behalf of the defendant, the court will order it to be returned to the owner (x) on motion founded on affidavit for that purpose, and not to the defendant; and it seems reasonable to suppose this court would adopt the same rule upon any similar occasion occurring. The rule is in the first instance a rule to show cause.

If Deposit paid by a third person. Will be returned to him.

No poundage is payable in respect of money paid into court under these statutes (a).

No Poundage.

On motion by the plaintiff to have the deposit paid out to him, if the defendant has removed from his residence and cannot be found, the practice in the King's Bench is, that service of the rule *nisi* may be made at his last place of residence, and a copy stuck up in the office (b); and probably the same practice would be adopted by this court; but no such instance has yet occurred.

If Defendant has removed.

Upon paying into court the further sum of 10*l.*, the defendant may be relieved from putting in special bail, and may enter a common appearance (c). This must be done by obtaining a rule from the clerk of the rules at the Exchequer Office, upon producing counsel's signature for that purpose. A copy of the rule and of the master's receipt must be served on the plaintiff's attorney;

Defendant may pay into Court 10*l.* further in lieu of Special Bail. How done.

(x) 1 Smith, 13. (b) 1 Chit. R. 675.  
(a) 2 B. & A. 770. 1 Chit. R. (c) 7 & 8 Geo. IV. c. 71, s. 2.  
529. 6 Moore, 124.



Bail Bond  
may be can-  
celled.

Appearance  
must be en-  
tered.

If deposit  
made, and a  
part of Plain-  
tiff's demand  
admitted.

How to pro-  
ceed.

If judgment  
for Plaintiff,  
he may have  
deposit paid  
out to him.

If Bail Bond  
given, De-  
fendant may  
deposit debt,  
and 20*l.* for  
costs, in lieu  
of Special  
Bail,  
and enter a  
common ap-  
pearance.

If Special  
Bail has been  
put in.

Deposit may  
be made.

And an Ex-  
onoretur en-  
tered on Bail  
Piece.

and where a defendant has thus paid money into court in lieu of special bail, a bail bond having been given to the sheriff, he may move the court to have the bail bond given up to be cancelled (*d*). The defendant, however, must enter a common appearance; and if he does not the plaintiff may do it for him.

If the defendant pay into court the amount sworn to, and 20*l.* towards costs in lieu of bail, and if he admits a part of the debt to be due, and wishes to defend for the remainder, he may move the court that the plaintiff may take such part of the money out of court, and that unless he accepts thereof, with costs to be taxed, in discharge of the action, such sum may be struck out of the declaration, and the plaintiff not permitted to give evidence on the trial in respect of such sum (*e*).

If judgment be given for the plaintiff, he may move on affidavit to have the money paid out of court to him, or so much as will satisfy the debt and costs; this is also a rule to show cause in the first instance.

If the defendant has given bail to the sheriff he may, instead of putting in special bail, pay into court the sum for which he has been arrested, and 20*l.* towards costs, and enter a common appearance; for which purpose he must in like manner obtain a rule upon producing counsel's signature.

The defendant may also, after putting in special bail by leave of the court, pay into court the amount of debt as sworn to and 20*l.* towards the costs, and enter a common appearance; and an *exonoretur* may thereupon be entered on the bail piece, on application to the court in term, or to a baron in vacation. This is a rule absolute on notice of motion being given, and verified by affidavit.

(*d*) *Smith v. Jordan*, 2 Moore & P. 428.

(*e*) *Hutbard v. Williams*, 8 B. & Cr. 496.

If the defendant be a prisoner he may deposit in like manner the amount of the debt and 20*l.* towards costs, and obtain a *supersedeas*. Deposit by a Prisoner.

If the plaintiff recover a verdict or judgment in a case where a deposit has been made, the plaintiff cannot leave the deposit in court, and issue execution for the whole damages and costs; but must move the court for leave to take the deposit out of court in part satisfaction of his judgment, and only issue his execution for the residue. In a matter referred to the master of this court, he certified that a plaintiff had left the deposit in court and issued execution for the whole damages and costs, which the master considered he had no right to do, and he founded his opinion upon the wording of the act of parliament, which directs that the money so paid in "should abide the event of the suit;" and that no power had in any case been given by the statute to the defendant to take the money out of court after final judgment against him. In argument the court said, that the act was passed in ease and for the benefit of defendants; and that it would be a great hardship upon a defendant, after the inconvenience of paying a large sum into court, to be taken in execution, and obliged to pay a second large sum to be relieved; and that there was a plain, straightforward course for the plaintiff to pursue, by which he could obtain the fruits of his judgment; and the court confirmed the master's report (*f*). If Plaintiff obtain Judgment. Cannot issue Execution for whole debt and costs. Case where this was recognised by the Court.

PROCEEDINGS ON A BAIL BOND TO A WRIT OF CAPIAS.

If the defendant does not put in and perfect special bail in due time the plaintiff may take an assignment If bail not put in in time Bond may be assigned.

(*f*) *Hews v. Pike*, 2 Tyr. 313.

But cannot  
be enforced  
till time for  
putting in  
Bail expired.  
Requisites of  
Bond.

of the bail bond (*g*) (provided the original cause be not out of court), and proceed against the bail; but no bail bond can be put in suit until after the expiration of eight days, inclusive from the day of the defendant's arrest (*h*). Care should be taken that the bail bond be properly taken and filled up in due time. Before the passing of the statute 2 Will. IV. c. 39, the bail bond must have been taken and executed before the return of the writ or it would have been void, and objection might have been taken by a plea of *non est factum* (*i*); but as the writ of *capias* under the new act is returnable immediately on being executed, this cannot now be done. If the bond be executed before the condition is filled up it is void (*k*).

Plaintiff  
cannot after  
taking  
assignment  
of Bond pro-  
ceed against  
Sheriff.

Nor give a  
body rule.

Bail may be  
put in before  
expiration of  
body rule.

The plaintiff cannot after taking an assignment of the bond proceed against the sheriff; nor can the sheriff afterwards be called upon to return the writ if the bond be valid. If the plaintiff has given a rule to bring in the body upon a return of *cepi corpus*, the defendant may put in and perfect special bail, at any time before the expiration of such rule; and the plaintiff having ruled the sheriff cannot proceed on an assignment of the bond, until the time has expired for bringing in the body, as before mentioned (*l*).

Bond may be  
assigned by  
consent after  
attachment.

It seems the bail bond may be assigned if the sheriff consents, even after a motion for an attachment if the plaintiff chooses to waive the attachment, and proceed upon the bail bond (*m*). But it cannot be assigned after service of the rule for allowance of bail: nor after the

But not after  
allowance of  
Bail.

(*g*) 4 Ann. c. 16, s. 20.

(*h*) 2 Will. IV. c. 39.

(*i*) 4 M. & S. 388; and see 2 T. R. 569.

(*k*) 3 Camp. 181.

(*l*) R. G. M. T. 1 Will. IV. Blackford v. Hawkins, 1 Bing. 121.

(*m*) Pople v. Wyatt, 15 East, 215; but see Blackford v. Hawkins. 1 Bing. 181.

defendant has been regularly rendered in discharge of his bail (*n*).

The bail bond may be assigned at any time after it is given (*o*), but no proceedings can be taken upon it until after it becomes forfeited. When Bond may be assigned.

The assignment must be made by indorsement on the back of the bond, under the hand and seal of the sheriff, or other officer, to whom the same may be given, and the assignment must be made in the presence of two or more credible witnesses. The assignment may be made either by the sheriff or the under sheriff in his name, but not by his clerk (*p*). Assignment how to be made.

The plaintiff may sue on the bail bond in his own name, and the names of the defendant and bail should be joined in the writ, if they are likely to be served; since in case of their being sued separately, the court will, on application, stay proceedings on payment of the debt and the costs of one action only (*q*). If there are more than two obligors named in the bond it is irregular to sue two of them only jointly (*r*). If there are any circumstances warranting the suing them separately, it may be done, and the plaintiff will then be entitled to the costs of all the actions brought (*s*). Where the original action is in this court the action on the bail bond must also be brought in this court (*t*); the sheriff may, however, sue on the bond in any court (*u*). The parties cannot be arrested on the bond, but when judgment has Plaintiff may sue in his own name. Obligors should be sued jointly. Action to be brought in same Court as original Action.

(*n*) 1 Esp. 87. 1 Taunt, 119. 4 T. R. 193.

(*o*) Barnes, 77.

(*p*) 1 Str. 60.

(*q*) R. G. H. T. 2 Will. IV. 1 Chit. R. 387. 2 B. & A. 598.

(*r*) Tidd, Pr. 300.

(*s*) R. G. H. T. 2 Will. IV.

(*t*) 3 Wils. 348. 2 W. Bl. 838.

1 Burr, 642, 3. Id. 1923. Barn, 117.

(*u*) R. G. 2 Will. IV. 8 Price, 174.

## 100 *Proceedings on a Bail Bond, &c.*

been obtained thereon they may be arrested on the judgment (v).

If proceedings on Bond irregular may be set aside.

Entitling Affidavits.

If the proceedings on the bail bond have been irregular, or if the affidavit to hold to bail insufficient, application may be made to the court to set aside the same, and if the application is considered a proper one the proceedings will often be set aside with costs; but the application should be prompt, and it has been held that where the affidavit was insufficient the application to set aside the bond should be made, before the time for putting in special bail expires (w). It is usual when the irregularity relied on is in the proceedings in the original cause, for the affidavit of the facts and the motion to be entitled in the original cause; but if the irregularity be in the proceedings in the action on the bail bond, then for the affidavits and motion to be entitled and made in that cause: it would seem, however, by a case in this court that they may be entitled in either cause (x). And though the proceedings may be regular they will sometimes be stayed on terms (y), after the defendant has perfected special bail, and on payment of costs. If a trial has been lost in consequence of the delay in perfecting bail the court will generally order the bail bond to stand as a security for debt and costs (z), even though the bail have rendered their principal (a): but not if a trial has been lost by the plaintiff's delay (b). By the rule of court, in *all* cases where the bail bond is ordered to stand as a security, liberty is given to the plaintiff to sign judgment upon

If a trial lost Bond will be ordered to stand as security.

(v) 6 T. R. 336. 1 Salk, 90.

(w) Tucker v. Colegate. 2 Tyr. 496.

(x) Lisle v. Chetwood. 2 Tyr. 177.

(y) 1 Burt, 121.

(z) Birch v. Graves. Burr, 74.

(a) Whitehead v. Phillips. 2 B. & A. 585.

(b) Wood v. Alderton. Barnes, 84.

it (c). When an action has been commenced upon the bond this may easily be done, but unless such action has been commenced it is difficult to conceive how it can be done. And judgment thereon may be signed.

If the plaintiff has declared *de bene esse* in a town cause, and has been prevented for want of special bail being perfected in due time, from entering his cause for trial, in the term next after that in which the writ is returnable, or in a *country* cause, for the ensuing assizes, the court will, on staying proceedings, either upon an attachment against the sheriff for not bringing in the body, or upon the bail bond on perfecting special bail, order the bail bond to stand as a security (d). The defendant cannot move to stay proceedings on the bail bond until he has perfected special bail in the original action (e). If Bail not perfected in time. Bond will be ordered to stand as security.

After the proceedings have been stayed on the terms of paying costs, the defendant should obtain the rule made for such purpose forthwith, and get the master's appointment to tax the costs and serve the rule with the appointment on the plaintiff's attorney, and proceed to tax such costs in the usual course; it being a condition that proceedings shall only be stayed on payment thereof, and there being no stay of proceedings until they are actually paid. If the plaintiff's proceedings have been regular and only stayed by the indulgence of the court the defendant cannot afterwards plead in abatement (f). Rule for staying proceedings should be served forthwith. And Costs taxed. If proceedings regular Defendant cannot afterwards plead in abatement.

Where a cause is out of court by lapse of time the plaintiff cannot take an assignment of the bail bond (g); but it is otherwise if the assignment is taken at any time before the cause is out of court (h). If Cause out of Court, Bond cannot be assigned.

(c) R. G. H. T. 2 Will. IV.

(f) 2 Salk, 519.

(d) R. G. H. T. 2 Will. IV.

(g) 2 Bl. R. 376.

(e) Boughton v. Chaffey. 2 Wils.

(h) 4 Taunt, 715.

6. 1 Burt, 130.

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Special Bail  
may be put  
in before  
attachment.

Special bail may be put in at any time before attachment is issued; and if put in on the same day that an attachment is moved for, the court will set aside the attachment on such terms as the circumstances may warrant. The bail when sued on the bail bond cannot traverse the arrest (i).

Bail when  
sued cannot  
traverse  
arrest.

If Plaintiff  
or Defendant  
die.

If the plaintiff or the defendant die before the return of the writ, or before the time expires for putting in special bail, the court will, in either case, relieve the bail to the sheriff (and sometimes with costs), where the plaintiff has proceeded with the knowledge of the death of the party (k): but if he die after the return of the writ, the court will stay the proceedings upon the bail bond on payment of costs, if the plaintiff could not have obtained judgment in the original action, in case he had proceeded therein (l): but if he could have obtained judgment therein the court will only stay the proceedings on payment of debt and costs (m).

If Defendant  
become  
Bankrupt.

If the defendant become bankrupt, and obtain his certificate before any action be commenced upon the bail bond, the court will set aside the proceedings in such action (n): but the safer course is to put in special bail for the defendant and render him, and then apply in the ordinary course to stay the proceedings on payment of costs (o).

If Defendant  
be an alien.

And if the defendant be an alien and sent out of the kingdom under the alien act, before the return of the writ, the court will order the bail bond to be given up to be cancelled (p).

(i) *Taylor v. Clew.* 1 B. & A. 223. (n) *Barnes*, 105; and see 1 *Burr*, 244.

(k) 8 Mod. 240.

(o) *Archb. P.*

(l) *Barnes*, 70.

(p) 7 T. R. 517.

(m) *Barnes*, 76.

*Proceedings against the Sheriff.*      103

If time be given for the justification of bail the plaintiff cannot, during such time, proceed on the bail bond : and where a defendant had rendered after time for justification of bail had been allowed (for the purpose of giving a better description of bail), and the plaintiff had afterwards taken proceedings on the bond, the court set the proceedings aside (r). If time given Plaintiff can not proceed in meantime.

PROCEEDINGS AGAINST THE SHERIFF.

The sheriff or other officer, or person, to whom any writ of capias may be directed, or who may have the execution and return thereof, whether by service or arrest, must indorse on the said writ within six days at the latest, after the execution thereof, the true day of executing the same : and if he should fail so to do he is liable, in a summary way, to make such compensation for any damage that may result from his neglect, as the court or a baron may direct (s) : and the officer of the court with whom the writ is filed must indorse upon the writ the day and hour when it was filed (t). By the old practice the sheriff could not have been ruled to return the writ until the return day of the writ, but a rule might then have been given (u) ; the rule may now be given, or order obtained, immediately on its execution : if it be directed to the sheriffs of London or Middlesex it is a four day rule : to any other sheriff six days : the days are reckoned exclusive of the day of service. If the rule to return the writ expires in the vacation, the sheriff must file the writ at the expiration of the rule, or as soon sheriff must indorse on Writ day of execution. Rule or Order to return Writ. If rule expire in vacation.

(r) *Richardson v. Hodgson*. 11 Price, 633.      (t) *Ib.*  
 (s) *R. G. M. T.* 3 Will. IV.      (u) *Saund.* 61 & 7.



104      *Proceedings against the Sheriff.*

after as the office opens (*w*). And in case a baron shall make an order in the vacation for the return of any writ issued by authority of the statute, on any day in vacation, and such order shall be duly served, but obedience shall not be paid thereto, and the same shall be made a rule of court in the ensuing term, it is not necessary to serve such rule of court, or to make any fresh demand of performance thereon, but an attachment may issue forthwith for disobedience of such order; whether the matter required to be done shall or shall not have been done in the mean time (*x*). And now, by a rule of court made in the last term, where a rule to return a bailable writ of *capias* may expire in vacation, and the sheriff or other officer having the return of such writ shall return "*cepi corpus*" thereon; a judge's order may thereupon be obtained, requiring the sheriff or other officer, within the same number of days, after the service of such order, as by the practice is prescribed with respect to rules, to bring in the body issued in term, to bring the defendant into court, by forthwith putting in, and perfecting bail above to the action. And if the sheriff, or other officer, shall not duly obey such order, and the same shall be made a rule of court in the term next following, it is not necessary to serve such rule of court, or to make any fresh demand thereon, but an attachment may be forthwith issued against the sheriff for disobedience of such order, whether the bail may or may not have been put in and perfected in the mean time (*y*).

If order made in vacation.

And not obeyed.

Attachment may issue.

Rule to bring in the Body in vacation.

If not obeyed.

Attachment may issue.

If Writ not returned pursuant to rule.

Attachment may be moved for.

If, in term time, the sheriff does not return the writ in due time (that is to say, on or before the last day mentioned in the rule), or if special bail be not perfected

(*w*) R. G. H. T. 2 Will. IV. s. 11.      (*y*) R. G. H. T. 3 Will. IV.  
(*x*) *Ib.*

within the time allowed for that purpose, or the defendant be not rendered, a motion may be made in court for an attachment: such application should be grounded upon an affidavit that special bail has not been put in and perfected, and of the service of the rule; and the rule should be attached to the affidavit.

If the rule expires on the last day of term the attachment may be moved for at the rising of the court on that day (s). If rule expires last day of term.

If the sheriff returns *cepi corpus* the plaintiff may, on the expiration of the rule to return the writ in term time, give a rule, or in vacation obtain an order for the sheriff to bring in the body; that is, where the time for putting in special bail has expired, but not before (a): and if such time has expired he may be ruled to bring in the body the day he so returns the writ (b). This is also a four-day rule when directed to the Sheriffs of London or Middlesex, and a six-day rule, when directed to any other sheriff. If the sheriff does not bring in the body, or special bail be not perfected before the expiration of the rule, the court may, on affidavit of service of the rule, and of no bail being put in, be moved in like manner for an attachment against the sheriff. If time be given to the defendant to perfect special bail the sheriff is not in contempt for not bringing in the body until such time expires (c). If Sheriff returns Cepi. If Defendant not rendered or Bail perfected, An attachment may be obtained.

No proceedings can be taken against a sheriff after the bail bond has been assigned (d).

If bail be perfected before the attachment is moved If Bail perfected before attachment.

(s) 11 East, 591.

Pouchee v. Lieven. 4 M. & S. 427.

(a) 8 East, 525. Rex v. Shff. of Midd. 5 Durnf. & E. 478.

(c) Howe v. Harvey. 12 Moore, 158.

(b) Rex v. Shff. of Midd. Case of

(d) 1 Burt, 121.

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for, although not put in within the usual time, it is sufficient to prevent an attachment (*e*). If the bail be perfected the same day that the attachment is moved for, it can only be stayed on payment of costs (*f*).

**Service of rules.** The rules may be served on the sheriff personally, but it is usual to serve them on the under sheriff; it is not sufficient to serve them on an agent to the under sheriff.

**Sheriff not liable beyond penalty.** The sheriff on being attached for contempt in not returning the writ or bringing in the body pursuant to the rule, is not liable beyond the extent of the penalty in the bail bond, and the costs of the proceedings to obtain, and of the attachment against him (*g*): but if the attachment against him is not set aside he can only be discharged from it on payment of the defendant and costs in the original action, at least to the extent of the penalty in the bail bond (*h*); together with the costs of the proceedings against him (*i*). The sheriff, after payment of the above, may commence an action on the bail bond against the bail to reimburse himself. In that case, the court on application will order the day of the appearance to be recorded, although issue may have been joined before such application, on the plea of *comperuit ad diem*. This is done where the issue may depend upon the date of the appearance (*k*).

**Attachment directed to Coroner.** The attachment is directed to the coroner (or coroners if more than one). If the coroner neglects his duty he may be ruled to return the attachment; and if he does not return it the court will, on motion, grant an attachment against him: the court should at the same time

(*e*) 1 Price, 103, 338.

(*h*) 7 T. R. 370. 3 East, 604.

(*f*) M'Clel. 83. 13 Price, 262. 8 East, 316. 1 H. Bl. 233.

(*g*) Rex. v. late Shff. of Devon.

(*i*) 2 B. & A. 192.

1 B. & A. 159.

(*k*) 1 Taunt. 23. 9 Price, 406.

be moved, that the attachment against the coroner be directed to Elisors, to be approved by the master (*l*).

If cepi corpus be returned to the attachment, the mode of proceeding to obtain payment of the debt and costs is, by moving the court for a writ of Habeas Corpus to bring up the body of the sheriff before a baron at chambers, to answer to such matters as may be alleged against him, which is a motion of course, and made without affidavit (*m*). An attachment against a late sheriff is directed to the present sheriff.

If Cepi  
Corpus  
returned to  
Attachment.

If special bail has been put in by the defendant, but omitted to be perfected, the sheriff may put in special bail, and render the defendant after an attachment has been moved for against him for not bringing in the body pursuant to a rule (*n*) : and it is not necessary for this purpose to obtain a baron's order to charge the attorney (*o*) ; the court will, however, impose such terms upon the sheriff as may appear reasonable.

Sheriff may  
put in Bail  
and render  
Defendant.

The sheriff cannot be called upon to return a writ after the expiration of six months from the time of his going out of office (*p*), and the months are considered *lunar* months ; and the day of his quitting his office is reckoned inclusive (*q*) ; but if he be ruled to return the writ within the six months, and neglects so to do, he may be attached for contempt (*r*) : nor can the sheriff be ruled to return the writ where a special bailiff has been appointed at the request of the plaintiff or his

Sheriff not  
bound to re-  
turn when  
out of Office  
six months.

Nor when  
special Bailiff  
appointed.

(*l*) *Andrews v. Sharp.* 2 Bl. R. 558.  
90 & 1218.

(*p*) 20 Geo. II. c. 37, s. 2.

(*m*) 1 Chit. R. 249.

(*q*) Doug. 463 ; and see 4 East,

(*n*) *Hamilton v. Jones.* 3 M. & 604.

P. 454.

(*r*) Doug. 468. n. 2 Saund. 61, c.

(*o*) *Hopkins v. Peacock.* 5 Price,

## 108 *Setting aside and staying Proceedings.*

agent, nor is the sheriff answerable for the acts of such bailiff (*s*).

**Late Sheriff.** If the sheriff be ruled to return the writ before he goes out of office, the rule to bring in the body must be directed to the late sheriff (*t*).

**Writs filed with Filazer.** All writs when returned are left by the sheriff with the filazer at the Exchequer Office, who files them on the general file of writs kept there.

**County Palatine.** Where process has been directed into a county palatine, the party in fault is the proper party against whom an attachment should be applied for; such as the Chancellor of Lancaster, or Bishop of Durham, or their officers (*u*).

**If Sheriff die.** If the high sheriff die, and the under sheriff act before another high sheriff is appointed, the under sheriff is liable for the proceedings taken in the interval; and proceedings may be taken against him as against the sheriff (*w*); with this exception, that a rule for an attachment against him is not absolute in the first instance, but is only a rule to show cause (*x*).

### SETTING ASIDE, AND STAYING PROCEEDINGS AGAINST SHERIFF.

**Setting aside Proceedings.** The court will exercise a discretionary power as to the proceedings against a sheriff, where it can be done without breaking in upon those rules which are considered as established and uniform, and when it can be done consistently with justice and reason: which power is given by statute (*y*).

(*s*) 4 T. R. 119. 2 Esp. 591. 2 W. BL 952. (*w*) 3 Geo. I. c. 15, s. 8.

(*x*) 2 Chit. R. 389.

(*t*) See 1 H. BL 629.

(*y*) 4 & 5 Ann, c. 16, s. 20.

(*u*) 1 Sed. 92.

### *Setting aside and staying Proceedings.* 109

The cases in which the court will more particularly interfere, are those in which the party suing the sheriff is not in fact prejudiced by the laches of the defendant, or of the sheriff; such as if no trial had been lost, or if the principal has been rendered by the bail. The terms generally imposed upon the sheriff are the payment of costs; and if a trial has been lost, that the attachment shall remain in the office as a security for damages and costs in the original action, in case the plaintiff recovers a verdict; or upon such other terms as the court shall consider proper and equitable.

The proceedings and any attachment founded thereon against the sheriff, may also be set aside for irregularity; the court in general considering that all proceedings against a sheriff should be strictly regular; and not only the proceedings against the sheriff, but those in the original action upon which the proceedings against the sheriff are founded, should also be strictly regular.

If the plaintiff die, and the action thereby abate after the arrest and before the return of the writ, the further proceedings will be set aside (x); and if the plaintiff or his attorney know of such death, the subsequent proceedings will, probably, be set aside with costs; but if the plaintiff die after the return of the writ the court will not relieve the sheriff if he were in contempt at the time of the death (a). If the defendant be an alien, and be sent out of the kingdom under the alien act, before the return of the writ, the court will set aside proceedings against the sheriff (b).

If the attachment be set aside, it is no bar to an assignment of the bail bond (c).

(\*) 8 Mod. 240.

(a) 3 T. R. 133.

(b) 7 T. R. 517.

(c) Wightw. 406.

In what cases may be done.

May be set aside for irregularity.

If Plaintiff die.

If Defendant an alien.

Attachment being set aside, bond may be assigned.

## 110 *Setting aside and staying Proceedings.*

If there has been delay by Plaintiff.

If there has been any very considerable unnecessary delay in moving for the attachment the court will also stay proceedings thereon, unless time has been given for the accommodation of the sheriff (*d*).

Proceedings may be set aside in some cases where they are regular.

The court will not only stay proceedings against the sheriff when they are irregular, but will exercise a discretion in many cases when they have been strictly regular, and have been properly taken: that is to say, where a trial may be had upon the merits; but such interference will only be upon such terms as to the court may appear reasonable.

If application made by Defendant.

If the application is made by the defendant, the court will only grant relief where the application is grounded upon an affidavit that the defendant has a good defence to the action upon the merits.

If made by Sheriff or bail.

If it be made by the sheriff, or his officer, or by the bail, the application must be made upon an affidavit, stating that such application is really and *bona fide* made by the party (describing him) making it, and at his own expense (*e*), and for his indemnity alone, and without any collusion with the defendant.

Affidavits, how entitled.

The affidavit to be used on the motion to set aside proceedings against the sheriff should be entitled "The King against the Sheriff of, &c.," in a cause of "(naming the plaintiff and defendant)." Two days notice of motion should be given, otherwise there can be no stay of proceedings. The court, however, will never relieve a sheriff when he has committed a breach of duty (*f*);

(*d*) *Rex v. Perring*, 3 B. & P. 157. Bing. 427.; and 1 M. & P. 177.  
*Rex v. Sheriff of Surrey*, 9 East, 467. (*f*) 7 T. R. 239. 2 B. & A. 354;  
*Rex v. Sheriffs of London*, 2 Chit. R. and see T. R. 109. Barnes, 23, 34,  
58; and 1 D. & R. 163. 6 Taunt. 554. 1 Bing. 156. 2 Id.

(*e*) *Rex v. Sheriff of London*, 4 227. 4 D. & R. 155.

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and the same rule will apply whether the application be made by the sheriff or by the defendant (*g*).

As the proceedings *against* the sheriff are required to be regular, so must any proceedings *by* the sheriff be also regular. When the sheriff omitted in his notice of putting in special bail to state their names, or that they had been perfected, it was held to be irregular, although it was not such an irregularity as to warrant the notice being treated as a nullity, or to found a motion for an attachment for not bringing in the body of the defendant pursuant to the rule for that purpose (*h*).

In these cases, however (as in all motions to set aside proceedings for irregularity), the party complaining should move as early as possible, otherwise the court will not interfere; and if it is intended that the rule to show cause should operate as a stay of proceeding notice of motion must be given.

Proceedings  
by Sheriff  
must be re-  
gular.

Applications  
must be  
early.

(*g*) 2 B. & A. 354.

(*h*) Pugh v. Emery, 4 D. & R. 30.





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# APPENDIX.

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ANNO PRIMO

GULIELMI IV. REGIS.

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CAP. LXX.

*An Act for the more effectual Administration of Justice  
in England and Wales. [23d July, 1830.]*

WHEREAS the appointment of an additional puisne judge to each of His Majesty's superior Courts of Common Law would cause much greater facility and dispatch of business therein : And whereas it is expedient to put an end to the separate jurisdiction for the County Palatine of Chester and the Principality of Wales, and to make more effectual provision for the administration of justice in England and Wales ; be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That whenever his Majesty shall be pleased to appoint an additional puisne judge to either of his Courts of the King's Bench, the Common Pleas, and the Exchequer, the puisne judges of such court shall sit by rotation in each term, or otherwise, as they shall agree amongst themselves, so that no greater number than three of them shall sit at the same time in Banc for the transaction of business in term, unless in the absence of the lord chief justice or lord chief baron ; and that it shall and may

Puisne  
Judges to sit  
in Rotation ;  
but not less  
than Three  
at a Time  
in Banc.

be lawful for any one of the judges of either of the said courts, when occasion shall so require, while the other judges of the same court are sitting in Banc, to sit apart from them for the business of adding and justifying special bail, discharging insolvent debtors, administering oaths, receiving declarations required by statute, hearing and deciding upon matters on motion, and making rules and orders in causes and business depending in the court to which such judge shall belong, in the same manner and with the same force and validity as may be done by the court sitting in Banc.

Salaries to  
additional  
Judges.

II. And be it further enacted, That from and after the appointment of any such additional judge there shall be issued and paid and payable out of and charged upon the consolidated fund of the United Kingdom of Great Britain and Ireland (after paying or reserving sufficient to pay all such sums as have been directed by any former Act of Parliament to be paid out of the same, but with preference to all other payments which shall hereafter be charged upon the same), the sum of five thousand pounds to such additional judge as he shall be so appointed, as and for a yearly salary, to be paid from time to time quarterly, free and clear from all taxes and deductions whatsoever, on the fifth day of January, the fifth day of April, the fifth day of July, and the tenth day of October, by equal portions, the first payment to be made on the first of such days respectively as shall occur after the appointment of the judge entitled to receive the same; and that if any person hereafter appointed to such office shall die, or resign the same, the executor or administrator of the person so dying, or the person so resigning, shall be entitled to receive such proportionable part of the salary aforesaid as shall have accrued during the time that such person shall have executed such office since the last payment, and that the successor of any such person so dying or resigning shall be entitled to receive such portion of the salary as shall be accruing or shall accrue from the day of such death or resignation: Provided always, that the removal of a puisne judge from one court to another shall not be deemed a new appointment under this act.

III. And be it further enacted, That upon the resignation of any such additional judge it shall be lawful for his Majesty, by his letters patent under the great seal of Great Britain, to give and grant to the person so resigning (under and subject to the same conditions, limitations, and restrictions, as any annuity on resignation can now by law be granted to any other judge of the same court) an annuity during his life not exceeding the sum of three thousand five hundred pounds yearly, or such other sum as shall by any act hereafter to be made provided for judges resigning their offices, to be paid and payable out of and charged upon the consolidated fund aforesaid, free and clear of all taxes and deductions whatsoever, by even quarterly payments to be made respectively on the days aforesaid in each year.

Retirement Allowances to additional Judges.

IV. And be it further enacted, That every judge of the said courts, to whatever court he may belong, shall be and he is hereby accordingly authorized to sit in London and Middlesex for the trial of issues arising in any of the said courts, and to transact such business at chambers or elsewhere, depending in any of the said courts, as relates to matters over which the said courts have a common jurisdiction, and as may, according to the course and practice of the court, be transacted by a single judge.

Additional Judges may sit in London and Westminster.

V. And be it further enacted, That a certain act passed in the third year of the reign of his late Majesty King George the Fourth, intituled, "An Act to repeal an Act of the First and Second Years of his present Majesty, for facilitating the Dispatch of Business in the Court of King's Bench, and to make further provision in lieu thereof," shall be and the same is hereby repealed, except so far as it repeals the said former act, and except so far as relates to the last warrant issued by his said late Majesty under the said act.

Repeal of Act 3, G. 4, c. 102.

VI. And be it further enacted, That in the year of our Lord one thousand eight hundred and thirty-one, and afterwards, *Hilary* Term shall begin on the eleventh and end on the thirty-first day of January; *Easter* Term shall begin on the fifteenth day of April and end on the eighth day of May; *Trinity* Term shall begin on the twenty-second day of May

Terms altered.

and end on the twelfth day of June; and *Michaelmas* Term shall begin on the second and end on the twenty-fifth day of November; and that the *essoign* and general return days of each term shall, until further provision be made by Parliament, be as follows; that is to say, the first *essoign* or general return day for every term shall be the fourth day before the day of the commencement of the term, both days being included in the computation; the second *essoign* day shall be the fifth day of the term; the third shall be the fifteenth day of the term; and the fourth and last shall be the nineteenth day of the term, the first day of the term being already included in the computation; with the same relation to the commencement of each term as they now bear, and shall be distinguished by the day of the term on which they respectively fall, the Monday being in all cases substituted for the Sunday when it shall happen that the day would fall on Sunday, except always that in *Easter* Term, there shall be but four returns instead of five, the last being omitted; provided that if the whole or any number of the days intervening between the Thursday before and the Wednesday next after *Easter* Day shall fall within *Easter* Term, there shall be no sittings in Banc on any of such intervening days, but the term shall in such case be prolonged and continue for such number of days of business as shall be equal to the number of the intervening days before-mentioned exclusive of *Easter* Day, and the commencement of the ensuing *Trinity* Term shall in such case be postponed, and its continuance prolonged for an equal number of days of business.

Limiting the  
Time for  
Sittings.

VII. And be it further enacted, That when the alteration of the terms herein-before-mentioned shall take effect, not more than twenty-four days, exclusive of Sundays after any *Hilary*, *Trinity*, and *Michaelmas* Term, nor more than six days, exclusive of Sundays, after any *Easter* Term, to be reckoned consecutively immediately after such terms, shall be appropriated to sittings in London and Middlesex for the trial of issues of fact arising in any of the said courts; provided that if any trial at bar shall be directed by any of the said courts, it shall be competent to the judges of such court

to appoint such day or days for the trial thereof as they shall think fit ; and the time so appointed, if in vacation, shall for the purpose of such trial be deemed and taken to be a part of the preceding term ; provided also, that a day or days may be specially appointed, at any time not being within such twenty-four days, for the trial of any cause at Nisi Prius, with the consent of the parties thereto, their counsel or attornies.

VIII. And be it further enacted, That writs of error upon any judgment given by any of the said courts shall hereafter be made returnable only before the judges, or judges and barons, as the case may be, of the other two courts in the Exchequer Chamber, any law or statute to the contrary notwithstanding ; that a transcript of the record only shall be annexed to the return of the writ ; and the Court of Error, after errors are duly assigned and issue in error joined, shall, at such time as the judges shall appoint, either in term or vacation, review the proceedings, and give judgment as they shall be advised thereon ; and such proceedings and judgment, as altered or affirmed, shall be entered on the original record, and such further proceeding as may be necessary thereon shall be awarded by the court in which the original record remains, from which judgment in error no writ of error shall lie or be had, except the same be made returnable in the High Court of Parliament.

IX. And be it further enacted, That upon all trials for felonies or misdemeanors upon any record of the Court of King's Bench, judgment may be pronounced during the sittings or assizes by the judge before whom the verdict shall be taken, as well upon the person who shall have suffered judgment by default or confession, upon the same record, as upon those who shall be tried and convicted, whether such persons be present or not in court, excepting only where the prosecution shall be by information filed by leave of the Court of King's Bench, or such cases of informations filed by his Majesty's attorney-general wherein the attorney-general shall pray that the judgment may be postponed ; and the judgment so pronounced shall be endorsed upon the record of Nisi Prius, and afterwards entered upon the record in court, and shall be

Regulation  
as to Writs  
of Error.

Judgments  
to be pro-  
nounced in  
all trials for  
Felonies  
upon record  
during the  
Sittings  
except as  
herein is ex-  
cepted.

of the same force and effect as a judgment of the court; unless the court shall, within six days after the commencement of the ensuing term, grant a rule to show cause why a new trial should not be had or the judgment amended; and it shall be lawful for the judge before whom the trial shall be had either to issue an immediate order or warrant for committing the defendant in execution, or to respite the execution of the judgment, upon such terms as he shall think fit, until the sixth day of the ensuing term; and in case imprisonment shall be part of the sentence, to order the period of imprisonment to commence on the day on which the party shall be actually taken to and confined in prison.

Attornies of  
King's Bench  
or Common  
Pleas may  
practise in  
the Exche-  
quer in like  
Manner.

X. And be it further enacted, That all persons admitted or admissible to practise as attornies in the Courts of King's Bench and Common Pleas shall be admissible in like manner, as attornies of the Court of Exchequer, and be admitted and allowed to practise there as such, upon application to the barons of that court, without being obliged to employ any clerk in court in the capacity of attorney of the Court of Exchequer, any law or usage to the contrary notwithstanding; and that it shall be lawful for the barons of the said court, and they are hereby required, to distinguish by their rules and orders *the fees which shall continue to be taken by the sworn and side clerks of the court for the duties performed as officers of the court, similar to the duties of the officers of the other superior courts*, from such fees and charges as shall be allowed to be taken by the attornies so admitted to practise, so that the amount of such fees and charges upon the whole do not exceed the amount and rate of such fees and charges as are now allowed upon the taxation of costs.

Fees of  
Clerks.

Judges may  
make Rules  
for Regula-  
tion of  
Courts.

XI. And be it further enacted, That in all cases relating to the practice of any of the Courts of King's Bench, Common Pleas, or Exchequer, in matters over which the said courts have a common jurisdiction, or of or relating to the practice of the court of error before mentioned, it shall be lawful for the judges of the said courts jointly, or any eight or more of them, including the chiefs of each court, to make general rules and orders for regulating the proceedings of all the said courts;

which said rules and orders so made shall be observed in all the said courts, and no general rule or order respecting such matters shall be made in any manner, except as aforesaid.

XII. And be it further enacted, That bail may be justified before a judge in chambers, or in some other convenient place to be by him appointed, as well in term as in vacation, and whether the defendant be actually in custody or not.

Justification  
of Bail before  
Judge in  
Chambers.

XIII. And be it further enacted, That from and after the commencement of this act his Majesty's writ shall be directed and obeyed, and the jurisdiction of his Majesty's Courts of King's Bench, Common Pleas, and Exchequer respectively, and of the several judges and barons thereof, shall extend and be exercised over and within the County of Chester and the County of the City of Chester, and the several counties in Wales, in like manner, to the same extent, and to and for all intents and purposes whatsoever as the jurisdiction of such courts respectively is now exercised in and over the Counties of England not being Counties Palatine, any statute heretofore passed to the contrary notwithstanding; and that all original writs to be issued into the said several Counties of Chester, City of Chester, and Wales, shall be issued by the cursitors for London and Middlesex, and the process and proceedings thereon shall be issued by and transacted with such of the officers of the several Courts of King's Bench and Common Pleas as shall be named for that purpose by the chief justices of such courts respectively, each naming for his own court.

Jurisdiction  
of Courts at  
Westminster  
extended to  
Counties  
Palatine, &c.

XIV. And be it further enacted, That all the power, authority, and jurisdiction of his Majesty's Court of Session of the said County Palatine of Chester, and of the judges thereof, and of his Court of Exchequer of the said County Palatine, and of the chamberlain and vice chamberlain thereof, and also of his judges and Courts of Great Sessions, both in law and equity, in the Principality of Wales, shall cease and determine at the commencement of this Act; and that all suits then depending in any of the said courts, if in equity, shall be transferred, with all the proceedings thereon, to his Majesty's Court of Chancery or Court of Exchequer, as the plaintiff or (in default of his making choice before the last

Present Ju-  
risdiction of  
Counties  
Palatine  
and Princi-  
pality of  
Wales to  
cease.

Suits to be  
transferred.



day of next *Michaelmas* Term) as any defendant shall think fit, and if in law, to the Court of Exchequer, there to be dealt with and decided according to the practice of those courts respectively, or of the court from whence the same shall be transferred, according to the discretion of the court to which the same shall be transferred ; which court shall, for the purpose of such suits only, be deemed and taken to have all the power and jurisdiction, to all intents and purposes, possessed before the passing of this Act by the court from whence such suit shall be removed.

Not to affect  
the Rights of  
the Corpora-  
tion of  
Chester.

XV. Provided always, and be it enacted, That nothing in this Act contained shall be construed to abolish or affect the obligations and duties or the jurisdiction or rights now lawfully imposed upon, performed, or claimed and exercised by the mayor and citizens of Chester in the courts of the County of the City of Chester or otherwise, save and except that such writs of error or false judgment as may now by any charter or usage of the said corporation be brought upon the judgments of the said courts or any of them before any of the courts abolished by this Act, shall hereafter be issued, as in other cases, from inferior courts, and be returnable into his Majesty's Court of King's Bench.

Attornies of  
Courts of  
Great Ses-  
sions allow-  
ed to prac-  
tise, on  
Payment of  
certain Fees.

XVI. And be it further enacted, That all persons who on or before the passing of this Act shall have been admitted as attornies, and shall then be practising in any of the Courts of Sessions or Great Sessions in the County Palatine of Chester or in Wales respectively, shall be entitled, upon the payment of one shilling, to have their names entered upon a roll to be kept for that purpose in each of the superior courts of Westminster, and thereupon be allowed to practise in such courts in all actions and suits against persons residing, at the commencement of the suit, within the County of Chester or Principality of Wales ; and that all persons having served or now actually serving as clerks to such attornies under articles, and who would otherwise be entitled to be admitted as attornies of the said Courts of Great Sessions, may, on or before the expiration of six months after the passing of this act, be admitted as attornies of the said Courts at Westminster, for

the purpose of practising there, in the like matters only, without payment of any greater duty than would be now payable by law upon their admission as attornies of such Courts of Great Sessions respectively.

XVII. And be it further enacted, That all attornies and solicitors now actually admitted and practising in any of the said Courts of Sessions or Great Sessions may be admitted as attornies of the said Courts at Westminster, in like manner as is now or may be hereafter prescribed for the admission of other persons as attornies therein, upon payment of such sum for duty, in addition to the sum already paid by them in that behalf, as shall, together with such latter sum, amount to the full duty required upon admission of attornies in the said Courts at Westminster; and that all persons having served or now actually serving under articles as clerks to such attornies or solicitors of any of the said Courts of Sessions or Great Sessions, may, at the expiration of their respective times of service, be admitted as attornies of the said Courts at Westminster, in like manner and upon payment of the like duty as if they had served under articles as clerks to attornies to the last-mentioned courts.

Attornies of Great Sessions may be admitted as Attornies at Westminster.

XVIII. And be it further enacted, That any person who shall have been duly appointed a commissioner for taking affidavits, or a master extraordinary in chancery of any of the courts abolished by this Act, shall, upon producing his appointment before the proper officer, and upon the payment of one shilling, be entitled to have his name inserted in a list to be kept for that purpose of such commissioners or masters extraordinary, as the case may be, and to exercise, within the limits of his existing commission or commissions, the same power and authority, and for the same purposes, as if his commission had issued from one of his Majesty's Courts at Westminster.

Masters Extraordinary acting in Courts abolished by this Act allowed to exercise same Powers, upon certain Conditions.

XIX. And be it further enacted, That from and after the time herein appointed for the commencement of this Act, assizes shall be held for the trial and dispatch of all matters, criminal and civil, within the County of Chester and the several counties and county towns in the Principality of

Assizes to be held in Chester and Wales.

Wales, under and by virtue of commissions of assize Oyer, and Terminer, gaol delivery, and other writs and commissions, to be issued in like manner and form as hath been usual for the counties in England; and all laws and statutes now in force relating to the execution of such commissions, when issued for counties in England, shall extend and be applied to the execution of the commissions issued for the County of Chester and the Counties of Wales under the authority of this Act.

Mode of holding Assizes in Chester and Wales until his Majesty shall otherwise direct.

XX. And be it further enacted, That, until it shall be otherwise provided by law, one of the two judges appointed to hold the sessions of assizes under his Majesty's commission within the County of Chester and Principality of Wales shall, in such order and at such times as they shall appoint, proceed to hold such assizes at the several places where the same have heretofore been most usually held within South Wales; and the other of such judges shall proceed to hold such assizes at the several places where the same have heretofore been most usually held in North Wales; and both of such judges shall hold the assizes in and for the County of Chester in like manner as in other counties of England.

Regulations as to rendering in Discharge of Bail, Defendant not being in Custody.

XXI. And be it further enacted, That a defendant, who shall have been held to bail upon any Mesne Process issued out of any of his Majesty's superior courts of record, may be rendered in discharge of his bail, either to the prison of the court out of which such process issued, according to the practice of such court, or to the common gaol of the county in which he was so arrested, and the render to the county gaol shall be effected in the manner following; that is to say, the defendant, or his bail, or one of them, shall for the purpose of such render obtain an order of a judge of one of his Majesty's superior Courts of Westminster, and shall lodge such order with the gaoler of such county gaol, and a notice in writing of the lodgment of such order, and of the defendant's being actually in custody of such gaoler by virtue of such order, signed by the defendant, or the bail, or either of them, shall be delivered to the plaintiff's attorney or agent, and the sheriff or other person responsible for the custody of debtors

or by the attorney or agent or any or either of them, in such county gaol shall, on such render so perfected, be duly charged with the custody of such defendant, and the said bail shall be thereupon wholly exonerated from liability as such.

XXII. And be it further enacted, That a defendant who shall hereafter be in custody of the gaoler of the county gaol of any county in England or in the Principality of Wales, by virtue of any proceeding out of any of his Majesty's superior courts of record, may be rendered in discharge of his bail in any other action depending in any of the said courts, in the manner hereinbefore provided for a render in discharge of bail; and the keeper of such gaol, or such sheriff or other person responsible for the custody of debtors as aforesaid, shall on such render be duly charged with the custody of such defendant, and the said bail shall be thereupon wholly exonerated from liability as such.

As to rendering in Discharge of Bail, Defendant being already in Custody.

XXIII. And be it further enacted, That the salaries of the judges of the County Palatine of Chester, and of the judges of the several courts of Great Sessions in the Principality of Wales, shall, upon the termination of the said offices, respectively, make part of the consolidated fund, of the United Kingdom of Great Britain and Ireland, and a sum equal to the amount of each such salary shall be retained in the Exchequer as part of the consolidated fund, and no part thereof shall be issued or carried to the account of the civil list; any thing in any Act or Acts of Parliament to the contrary notwithstanding.

Upon Termination of Office of Welsh Judges, their Salaries to be retained, and form Part of Consolidated Fund.

XXIV. And whereas it is expedient that due provision should be made for the compensation of the judges hereinafter mentioned, and of other persons having a freehold in their offices in the County of Chester or Principality of Wales, for the losses they may sustain by the abolition of their offices or reduction of their fees by virtue of this Act; be it therefore enacted, That from and after the commencement of this Act there shall be issued, paid, and payable, out of and charged upon the consolidated fund of the United Kingdom of Great Britain and Ireland (after paying or reserving sufficient to pay all former charges thereon, but in

Compensation to Welsh Judges on Abolition of their Offices.

preference to any charge hereafter to be made), to Thomas Jervis, Esquire, now one of his Majesty's justices of the Chester Circuit, the sum of one thousand and fifteen pounds twelve shillings; to Jonathan Raine, Esquire, now his Majesty's chief justice of the North Wales' Circuit, the sum of one thousand pounds; and to Robert Matthew Casberd, Esquire, one of his Majesty's judges of the Brecon Circuit, the sum of one thousand pounds; the said several sums to be payable and paid, free and clear from all taxes and deductions whatsoever, by even portions, on the fifth days of January, April, and July, and the tenth day of October, in each year; the first payment thereof to commence and be made on the first of such days as shall occur after the commencement of this Act; and the said annuities respectively to continue during the lives of the parties respectively entitled to receive the same, or until such time as they may respectively be appointed by his Majesty to any other place or office, the salary or emoluments of which shall be of equal or greater amount than the said annuities respectively, or in case the salary or emolument of such office shall be of less yearly amount than the annuity which the party appointed to such office is entitled by this Act to receive, then the said annuity to be abated and reduced in proportion to the amount of such salary or emoluments, so as to make the whole sum received by the party equal to, but not exceeding, the amount of such annuity.

Compensa-  
tions to Per-  
sons affected  
by Abolition  
of the Courts  
of Wales and  
Chester.

XXV. And be it further enacted, That there shall in like manner after the commencement of this Act, be issued, paid, and payable out of and charged upon the said consolidated fund (after paying and reserving as aforesaid, and with such preference as aforesaid), to the several persons having a freehold interest in such offices in the County of Chester or Principality of Wales as shall be abolished or affected by virtue of this Act, free and clear of all taxes and deductions whatsoever, such sums of money, at such times, by way of annuity or otherwise, as shall be adjudged and determined to be due to such persons respectively by any commission to be appointed by his Majesty or by virtue of any Act of Par-

liament, for the purpose of determining the amount of the compensation that ought to be due and payable in such cases; and that in the meantime and until compensation shall be awarded and determined in manner aforesaid, or the time shall have elapsed that may be appointed for claiming the same, it shall be lawful for the commissioners of his Majesty's treasury of the United Kingdom of Great Britain and Ireland, or any three of them, to issue their warrants for the payment to such persons as aforesaid, out of the said consolidated fund, of such half-yearly or quarterly allowances as to the said commissioners shall seem reasonable, both as to the amount and times of payment, on account of such compensation as may thereafter be awarded to the said parties respectively.

XXVI. Provided always, and be it further enacted, That no person shall be entitled to such compensation or allowance as aforesaid, whose appointment to his office was qualified by any condition or reservation expressed in his patent or otherwise made known to such person, that such office or the emoluments thereof were to be held and enjoyed subject to any future provision to be made by Parliament touching the same, or without any claim to compensation in case the same should cease or be subjected to any regulation: And provided also, that no person shall be entitled to receive any such compensation or allowance who shall not previously make a full and true statement to the said commissioners of his Majesty's treasury, to be verified on oath before a judge or master in chancery, if they shall think fit so to direct, of the amount of the salary, fees, and emoluments of such office, and of the disbursements and outgoings of the same, for the space of ten years before the passing of this Act; and that such compensation or allowance shall cease altogether, or be reduced in amount, as the case may be, whenever the party entitled to receive the same shall be placed in any other public office of which the salary and emoluments shall be equal to the whole or to part of such compensation or allowance, so that in the last-mentioned case no person shall be entitled to receive more of such compensation or allowance than shall be equal

Persons appointed under certain Restrictions, to the Offices about to be abolished, not entitled to Compensation.

to the difference between the full amount thereof and the amount of the salary and emoluments of the office in which he may be hereafter placed.

Records of the several Courts abolished to be kept as heretofore until otherwise provided for

XXVII. And be it further enacted, That the records, muniments, and writings of the several courts abolished by this Act shall, until otherwise provided by law, be kept by the same persons and in the same places as before the passing of this Act; and that the Court of Common Pleas shall have the like power and authority to amend the records of fines and recoveries passed heretofore in any of the courts abolished by this Act, as if the same had been levied, suffered, or had in the Court of Common Pleas; provided always, that in case of the death of any such person before any other provision shall have been made for keeping such records, muniments, and writings, the custody thereof shall be with the clerks of the peace of the several counties to which counties the same shall respectively belong.

Proclamation upon Fines may be made at Assizes in Chester or Wales.

XXVIII. And be it further enacted, That upon all fines which now are or before the commencement of this Act shall be duly acknowledged in Chester or Wales, proclamation may be made at the successive assizes to be holden under his Majesty's commission within the County of Chester and Principality of Wales, before any judge of such assize, during the continuance of such his commission, in the same manner and form, and with the same force and effect, as if the same had been proclaimed before the justices of Chester and Wales, or any of them; any law or usage to the contrary notwithstanding.

Fines, &c. to be levied in Chester, &c., as in other Counties of England.

XXIX. And be it further enacted, That all fines and recoveries to be levied and suffered after the commencement of this Act, of lands, tenements, or hereditaments in the County of Chester or County of the City of Chester or Principality of Wales, shall be levied and suffered in such and the like manner, and the same officers shall be employed therein, as in the case of fines and recoveries now levied or suffered of lands, tenements, or hereditaments in any County of England not being a County Palatine.

Not to affect the Rights of

XXX. Provided always, and be it further enacted, That

nothing in this Act contained shall be taken to affect the right of any lessee by patent under the crown, or of any pensioner or other person lawfully entitled to any portion of the money payable upon fines and recoveries of manors, lands, or tenements in the County of Chester or Principality of Wales, but that the same shall be paid and payable by the proper officer of the Court of Common Pleas who shall receive the same, to such lessee or other person, or his agent, in like manner and to the same extent as heretofore, during the continuance of his interest therein.

Lessees by Patent before the passing of this Act.

XXXI. And be it further enacted, That in all cases where any trust for charitable uses or of a public nature shall have been cast upon the judges of the courts hereby abolished, by virtue of their offices, it shall be lawful for the Lord High Chancellor or keeper of the seals for the time being, or for the judges of assize upon their circuits in the County of Chester or Principality of Wales, to appoint such other trustee or trustees as they shall think fit, by any writing under their hands, in place of the former judge or judges; which trustee or trustees so named shall have the same power and authority, and be subject to the same rules and duties, as the trustee or trustees for whom he or they may be substituted.

Lord Chancellor may appoint Trustees for Charitable Uses in lieu of Judges abolished by this Act.

XXXII. And be it further enacted, That whereby any law, charter, or usage, any corporate or other officer or person hath been accustomed, or ought to take any oath before any of the judges or other officers or in any of the courts abolished by this Act, such officer or person may and shall take the same oath before any judge during the assizes, or in open court at the quarter sessions in the county where such oath was formerly taken, and such oath being so taken shall have the same force and effect to all intents and purposes, as if taken before any of the judges or in any of the courts abolished by this Act.

Officers to take the same Oaths before Judges hereby appointed as they did before the Judges of the Courts hereby abolished.

XXXIII. And whereas it is expedient that the accounts of the sheriffs of the County of Chester and Principality of Wales should be passed, as nearly as circumstances will admit, in the same manner as heretofore; be it enacted, That

For passing Accounts of Sheriffs of County of Chester and Principality of Wales.



the clerk of assize, within ten days after the conclusion of the assizes in the County of Chester and in each county in Wales, shall make out a roll containing the names and places of residence of all persons liable to the payment of any fines, issues, amercements, recognizances, compositions, or other sums imposed or forfeited during the preceding assizes, with the sums set opposite to each name, and shall forthwith transmit the same to the sheriff, with an order upon the sheriff, signed in the name of one of the judges of assize, directing the sheriff to cause such sums to be levied and recovered from the parties liable to pay the same, which order shall be of the same force and efficacy, and be returnable to the same person or persons, as any writ or process heretofore issued to the sheriff for the like purpose; and the sheriff, upon the receipt thereof, shall proceed to levy the sums in the said roll mentioned, and shall be accountable for the same, and all arrears thereof, in the same manner, at the same time, and to the same officer, and shall pass his accounts before the same officer or officers, as he hath been heretofore accustomed.

Attornies  
General of  
County of  
Chester and  
Wales to  
continue  
until his  
Majesty shall  
otherwise  
appoint

XXXIV. And be it further enacted, That the several persons holding and exercising within the several counties of Chester and Wales the office of his Majesty's attorney general shall, until his Majesty's pleasure shall be otherwise declared, continue (within their several places and counties where they are now entitled to exercise such office) to have, in person only, and not by deputy, the same rank, name of office, and the same privileges, fees, and emoluments, which by any law or custom they have hitherto enjoyed and held within their respective counties, save and except such fees as would necessarily cease with the abolition of the courts and jurisdictions abolished by this Act.

When  
Quarter  
Sessions are  
to be held.

XXXV. And whereas the general quarter sessions of the peace are now directed to be held in each year in the first week after the eleventh day of October, in the first week after the Epiphany, in the first week after the clause of Easter, and in the first week after the Translation of Saint Thomas the Martyr: And whereas it will be expedient that the times of holding the general quarter sessions of the peace

should be altered in part; be it therefore enacted, That in the year of our Lord one thousand eight hundred and thirty-one, and afterwards, the justices of the peace in every county, riding, or division for which quarter sessions of the peace by law ought to be held, shall hold their general quarter sessions of the peace in the first week after the eleventh day of October, in the first week after the twenty-eighth day of December, in the first week after the thirty-first day of March, and in the first week after the twenty-fourth day of June; and that all acts, matters, and things done, performed, and transacted at the times appointed by this Act for the holding of the general quarter sessions of the peace, shall be as valid and binding to all intents and purposes, as if the same had been done, performed, and transacted at general quarter sessions of the peace holden at the times by law limited for the holding thereof before the passing of this Act.

XXXVI. And whereas landlords, to whom a right of entry into or upon any lands or hereditaments may accrue during or immediately after *Hilary* and *Trinity* Terms respectively, are at present unable to prosecute ejectments against their tenants, so as to try the same at the assizes immediately ensuing, whereby much delay is occasioned in the recovery of the possession of lands and tenements wrongfully withheld by tenants against their landlords; be it therefore enacted, That in all actions of ejectment hereafter to be brought in any of his Majesty's Courts at Westminster by any landlord against his tenant, or against any person claiming through or under such tenant, for the recovery of any lands or hereditaments where the tenancy shall expire, or the right of entry into or upon such lands or hereditaments shall accrue to such landlord, in or after *Hilary* or *Trinity* Terms respectively, it shall be lawful for the lessor of the plaintiff in any such action, at any time within ten days after such tenancy shall expire or right of entry accrue as aforesaid, to serve a declaration in ejectment entitled of the day next after the day of the demise in such declaration, whether the same shall be in term or in vacation, with a notice thereunto subscribed, requiring

Landlords to recover Possession of Lands, &c. after Notice after Ejectment.

the tenant or tenants in possession to appear and plead thereto within ten days in the court in which such action may be brought; and proceedings shall be had on such declaration, and rules to plead entered and given, in such and the same manner, as nearly as may be, as if such declaration had been duly served before the preceding term: Provided always, That no judgment shall be signed against the casual ejector until default of appearance and plea within such ten days, and that at least six clear days' notice of trial shall be given to the defendant before the commission day of the assizes at which such ejectment is intended to be tried; provided also, that any defendant in such action may, at any time before the trial thereof, apply to a judge of either of his Majesty's superior Courts at Westminster, by summons in the usual manner, for time to plead, or for staying or setting aside the proceedings, or for postponing the trial until the next assizes; and that it shall be lawful for the judge in his discretion to make such order in the said cause as to him shall seem expedient.

Declaration  
to be entitled  
specially.

XXXVII. And be it further enacted, That in making up the record of the proceedings on any such declaration in ejectment it shall be lawful to entitle such declaration specially of the day next after the day of the demise therein, whether such day shall be in term or in vacation, and no judgment thereupon shall be avoided or reversed by reason only of such special title.

Writ of Possession may  
issue on Certificate of  
Judge, &c.

XXXVIII. And be it further enacted, That in all cases of trials of ejectments at Nisi Prius, when a verdict shall be given for the plaintiff, or the plaintiff shall be nonsuited for want of the defendant's appearance to confess lease, entry, or ouster, it shall be lawful for the judge before whom the cause shall be tried, to certify his opinion on the back of the record that a writ of possession ought to issue immediately, and upon such certificate a writ of possession may be issued forthwith; and the costs may be taxed, and judgment signed and executed afterwards at the usual time, as if no such writ had issued: Provided always, That such writ, instead of reciting a recovery by judgment in the form now in use, shall recite

shortly that the cause came on for trial at Nisi Prius at such a time and place and before such a judge (naming the time, place, and judge), and that thereupon the said judge certified his opinion that a writ of possession ought to issue immediately.

XXXIX. And be it enacted, That this Act shall, as to Commence-  
ment of Act. all matters not otherwise provided for, commence and take effect upon and from the twelfth day of October in this present year.

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CAP. III.

*An Act to amend an Act of the last Session, for the better Administration of Justice, so far as relates to the Essoign and General Return Days of each Term, and to substitute other Provisions in lieu thereof; and to declare the Law with regard to the Duration of the Terms in certain Cases. [23d December, 1830.]*

WHEREAS by an Act passed in the last session of Parliament, intituled "An Act for the more effectual Administration of Justice in England and Wales," it was amongst other things enacted, that the essoign and general return days of each term should, until further provision be made by Parliament, be as follows; that is to say, the first essoign or general return day for every term shall be the fourth day before the day of the commencement of the term, both days being included in the computation, the second essoign day shall be the fifth day of the term, the third shall be the fifteenth day of the term, and the fourth and last shall be the nineteenth day of the term, the first day of the term being already included in the computation, with the same relation to the commencement of each term as they now bear, and shall be distinguished by the day of the term on which they fall, the Monday being in all cases substituted for the Sunday when it shall happen that the day would fall on Sunday, except always that in *Easter Term* there shall be four returns instead of five, the last being omitted: And whereas it is expedient to repeal so much of

Repeal of so much of recited Act as relates to the Appointment of Essoign Days.

the said act as is herein recited, and to make other provisions in lieu thereof: Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That so much of the said act as is herein-before recited shall be and the same is hereby repealed.

When Writs are to be returnable.

II. And be it further enacted, That all writs now usually returnable before any of His Majesty's Courts of King's Bench, Common Pleas, or Exchequer respectively, on general return days, that shall be made returnable after the first day of January in the year of our Lord one thousand eight hundred and thirty-one, may be made returnable on the third day exclusive before the commencement of each term, or on any day, not being Sunday, between that day and the third day exclusive before the last day of the term; and the day for appearance shall, as heretofore, be the third day after such return, exclusive of the day of the return, or in case such third day shall fall on a Sunday, then on the fourth day after such return, exclusive of such day of return.

For removing Doubts as to Duration of Terms.

III. And whereas it is expedient to remove all doubts that may exist as to the duration of the terms in any case that may occur; be it therefore declared and enacted, That in case the day of the month on which any term according to the act aforesaid is to end shall fall to be on a Sunday, then the Monday next after such day shall be deemed and taken to be the last day of the term; and that in case any of the days between the Thursday before and the Wednesday next after *Easter* shall fall within *Easter* Term, then such days shall be deemed and taken to be a part of such term, although there shall be no sittings in Banc on any of such intervening days.

For Continuance and Determination of Actions, Indictments, &c. which may have been depending in any of the Courts by

IV. And whereas it is expedient to provide for the continuance and determination of all such real actions, indictments, and informations for criminal offences, and informations in the nature of quo warranto, as may have been depending in any of the courts abolished by the said act: be it therefore enacted, That all indictments and informations for

criminal offences, and proceedings had thereon, depending in any of the said courts, shall, at the next General Assize and Oyer and Terminer to be holden in and for the county in the court whereof the same may be depending, be, by the late prothonotary of the same court, or other officer or person having the custody thereof, delivered to the Clerk of Assize of the same county, and shall be proceeded with and heard and determined in the same manner as if the same had been commenced at an Assizes or Oyer and Terminer holden in the same county by or before any Judges of Assize or Oyer and Terminer in and for such county; and that all writs of right and other real actions depending in any of the said courts, and all pleas and proceedings thereon, shall, at the request either of the demandant or tenant, be forthwith transmitted by such prothonotary, or other officer or person having the custody thereof, into the office of the prothonotaries of His Majesty's Court of Common Pleas, and shall be proceeded with and heard and determined in the said Court of Common Pleas in the same manner as if the same actions had been commenced in that court; and that all informations in the nature of quo warranto, and pleas and proceedings thereon, depending in any of the said abolished courts, shall, at the request either of the relator or defendant, be transmitted by such prothonotary, or other officer or person having the custody thereof, into the Crown Office of his Majesty's Court of King's Bench, and be proceeded with and heard and determined in the said Court of King's Bench as if the same had been commenced in that court; and every such delivery and transmission shall be made, certified, and signed, without fee or reward, by the officer or person delivering or transmitting the same.

as also of  
Writs of  
Right.

V. And whereas it was not intended by the said act to abridge the jurisdiction of the courts of the Mayor and Citizens of Chester within the county of the same city, but doubts may be entertained whether fines and recoveries may be levied and suffered in the same courts since the commencement of the said act, and it is expedient to remove such doubts, and to provide more distinctly for the levying of such

Recoveries  
of Lands  
may be suf-  
fered in the  
Courts of the  
Mayor of  
Chester, as  
herebefore;

and Fines  
levied on  
Writs issued  
from the  
Court of  
Chancery.

finer; be it therefore enacted by the authority aforesaid, That recoveries of lands, tenements, and hereditaments within the county of the same city may be levied and suffered as heretofore hath been accustomed in the said courts, or such of them as had authority and jurisdiction in that behalf, in like manner and to the same purpose and effect as if the said act had not passed; and that fines of such lands, tenements, and hereditaments may be levied on writs of covenant and other writs necessary and usual in that behalf to be issued out of the High Court of Chancery, instead of the Court of Exchequer of the County Palatine of Chester, and shall be of the same force and effect as fines levied before the justices of the Court of Common Pleas.

Such Fines  
may be re-  
versed upon  
Writ of  
Error.

VI. Provided always, and be it further enacted, That all such fines shall be subject to be reversed, and may be reversed upon writs of error to be sued and proceeded before the Justices of the Court of Common Pleas, if any error shall be found therein.

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#### CAP. XXII.

*An Act to enable Courts of Law to order the Examination of Witnesses upon Interrogatories and otherwise.*

[30th March, 1831.]

WHEREAS great difficulties and delays are often experienced, and sometimes a failure of justice takes place, in actions depending in courts of law, by reason of the want of a competent power and authority in the said courts to order and enforce the examination of witnesses, when the same may be required, before the trial of a cause: and whereas by an act passed in the thirteenth year of the reign of his late Majesty King George the Third, intituled "An Act for the establishing certain Regulations for the better Management of the Affairs of the East India Company, as well in India as in Europe," certain powers are given and provisions made for the examination of witnesses in India in the cases therein mentioned; and it is

expedient to extend such powers and provisions : be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That all and every the powers, authorities, provisions, and matters contained in the said recited act, relating to the examination of witnesses in India, shall be and the same are hereby extended to all colonies, islands, plantations, and places under the dominion of his Majesty in foreign parts, and to the judges of the several courts therein, and to all actions depending in any of his Majesty's courts of law at Westminister, in what place or country soever the cause of action may have arisen, and whether the same may have arisen within the jurisdiction of the court to the judges whereof the writ or commission may be directed, or elsewhere, when it shall appear that the examination of witnesses under a writ or commission issued in pursuance of the authority hereby given will be necessary or conducive to the due administration of justice in the matter wherein such writ shall be applied for.

Powers of the recited Act, as to the Examination of Witnesses in India, extended to the colonies, &c. and to all Actions in the Courts at Westminister, when Examination by Commission shall appear necessary.

II. And be it further enacted, When any writ or commission shall issue under the authority of the said recited act, or of the power herein-before given by this act, the judge or judges to whom the same shall be directed shall have the like power to compel and enforce the attendance and examination of witnesses as the court whereof they are judges does or may possess for that purpose in suits or causes depending in such court.

Judges to whom the Commission is directed empowered to enforce the Attendance of Witnesses.

III. And be it further enacted, That the costs of every writ or commission to be issued under the authority of the said recited act, or of the power herein-before given by this act, in any action at law depending in either of the said courts at Westminister, and of the proceedings thereon, shall be in the direction of the court issuing the same.

Costs of Writs to be in the discretion of the court.

IV. And be it further enacted, That it shall be lawful to and for each of the said courts at Westminister, and also the Court of Common Pleas of the County Palatine of Lancaster, and the Court of Pleas of the County Palatine of Durham, Examination

Courts at Westminister, Lancaster, and Durham may order the Examination



of Witnesses within their jurisdiction by an officer of the Court; or may order a Commission for that purpose out of their jurisdiction.

and the several judges thereof, in every action depending in such court, upon the application of any of the parties to such suit, to order the examination on oath, upon interrogatories or otherwise, before the master or prothonotary of the said court, or other person or persons to be named in such order, of any witnesses within the jurisdiction of the court where the action shall be depending, or to order a commission to issue for the examination of witnesses on oath at any place or places out of such jurisdiction, by interrogatories or otherwise, and by the same or any subsequent order or orders to give all such directions touching the time, place, and manner of such examination, as well within the jurisdiction of the court wherein the action shall be depending as without, and all other matters and circumstances connected with such examinations, as may appear reasonable and just.

Compelling attendance of Witnesses, or Production of Documents.

V. And be it further enacted, That when any rule or order shall be made for the examination of witnesses within the jurisdiction of the court wherein the action shall be depending, by authority of this act, it shall be lawful for the court, or any judge thereof, in and by the first rule or order to be made in the matter, or any subsequent rule or order, to command the attendance of any person to be named in such rule or order for the purpose of being examined, or the production of any writings or other documents to be mentioned in such rule or order, and to direct the attendance of any such person to be at his own place of abode, or elsewhere, if necessary or convenient so to do; and the wilful disobedience of any such rule or order shall be deemed a contempt of court, and proceedings may be thereupon had by attachment (the judge's order being made a rule of court before or at the time of the application for an attachment), if, in addition to the service of the rule or order, an appointment of the time and place of attendance in obedience thereto, signed by the person or persons appointed to take the examination, or by one or more of such persons, shall be also served together with or after the service of such rule or order: Provided always, That every person whose attendance shall be so required shall be entitled to the like conduct money and pay-

Disobedience to be deemed a Contempt of Court.

Payment of Expenses,

ment for expenses and loss of time as upon attendance at a trial: Provided always, That no person shall be compelled to produce, under any such rule or order, any writing or other document that he would not be compellable to produce at a trial of the cause.

Proviso as to  
Production of  
Documents.

VI. And be it further enacted, That it shall be lawful for any sheriff, gaoler, or other officer having the custody of any prisoner, to take such prisoner for examination under the authority of this act, by virtue of a writ of habeas corpus to be issued for that purpose, which writ shall and may be issued by any court or judge under such circumstances and in such manner as such court or judge may now by law issue the writ commonly called a writ of habeas corpus ad testificandum.

Prisoners  
may be re-  
moved by  
habeas cor-  
pus for Exa-  
mination.

VII. And be it further enacted, That it shall be lawful for all and every person authorized to take the examination of witnesses by any rule, order, writ, or commission made or issued in pursuance of this act, and he and they are hereby authorized and required, to take all such examinations upon the oath of the witnesses, or affirmation in cases where affirmation is allowed by law instead of oath, to be administered by the person so authorized, or by any judge of the court wherein the action shall be depending; and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and shall and may be indicted and prosecuted for such offence in the county wherein such evidence shall be given, or in the County of Middlesex if the evidence be given out of England.

Examina-  
tions of Wit-  
nesses to be  
taken upon  
Oath.

Persons giv-  
ing false  
Evidence to  
be deemed  
guilty of  
Perjury.

VIII. And be it further enacted, That it shall and may be lawful for the master, prothonotary, or any other persons to be named in any such rule or order as aforesaid for taking any examination in pursuance thereof, and he and they are hereby required, to make, if need be, a special report to the court touching such examination, and the conduct or absence of any witness or other person thereon or relating thereto; and the court is hereby authorized to institute such proceedings and make such order and orders upon such report as

Persons ap-  
pointed for  
taking Exa-  
minations to  
report to the  
Court upon  
the Conduct  
or Absence of  
Witnesses, if  
necessary.

justice may require, and as may be instituted and made in any case of contempt of the court.

Costs of the  
Order for  
Examination  
may be made  
Costs in the  
Cause.

IX. And be it further enacted, That the costs of every rule or order to be made for the examination of witnesses under any commission or otherwise by virtue of this act, and of the proceedings thereupon, shall (except in the case hereinbefore provided for) be costs in the cause, unless otherwise directed either by the judge making such rule or order, or by the judge before whom the cause may be tried, or by the court.

Restriction  
as to the  
reading of  
Examina-  
tions or De-  
positions  
without Con-  
sent of the  
Party.

X. And be it further enacted, That no examination or deposition to be taken by virtue of this act shall be read in evidence at any trial without the consent of the party against whom the same may be offered, unless it shall appear to the satisfaction of the judge that the examinant or deponent is beyond the jurisdiction of the court, or dead, or unable from permanent sickness or other permanent infirmity to attend the trial; in all or any of which cases the examinations and depositions certified under the hand of the commissioners, master, prothonotary, or other person taking the same, shall and may, without proof of the signature to such certificate, be received and read in evidence, saving all just exceptions.

Proviso as  
to Judges of  
Durham.

XI. Provided always, and be it further enacted, That no order shall be made in pursuance of this act by a single judge of the Court of Pleas of the said County Palatine of Durham, who shall not also be a judge of one of the said courts at Westminster.

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#### CAP. LVIII.

*An Act to enable Courts of Law to give Relief against adverse Claims made upon Persons having no Interest in the Subject of such Claims. [20th October 1831.]*

WHEREAS it often happens that a person sued at law for the recovery of money or goods wherein he has no interest, and

which are also claimed of him by some third party, has no means of relieving himself from such adverse claims but by a suit in equity against the plaintiff and such third party, usually called a bill of interpleader, which is attended with expense and delay ; for remedy thereof be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That upon application made by or on the behalf of any defendant sued in any of his Majesty's courts of law at Westminster, or in the Court of Common Pleas of the County Palatine of Lancaster, or the Court of Pleas of the County Palatine of Durham, in any action of assumpsit, debt, detinue, or trover, such application being made after declaration, and before plea, by affidavit or otherwise, showing that such defendant does not claim any interest in the subject matter of the suit, but that the right thereto is claimed or supposed to belong to some third party who has sued or is expected to sue for the same, and that such defendant does not in any manner collude with such third party, but is ready to bring into court or to pay or dispose of the subject matter of the action in such manner as the court (or any judge thereof) may order or direct, it shall be lawful for the court, or any judge thereof, to make rules and orders calling upon such third party to appear and to state the nature and particulars of his claim, and maintain or relinquish his claim, and upon such rule or order to hear the allegations as well of such third party as of the plaintiff, and in the meantime to stay the proceedings in such action, and finally to order such third party to make himself defendant in the same or some other action, or to proceed to trial on one or more feigned issue or issues, and also to direct which of the parties shall be plaintiff or defendant on such trial, or, with the consent of the plaintiff and such third party, their counsel or attornies, to dispose of the merits of their claims, and determine the same in a summary manner, and to make such other rules and orders therein as to costs and all other matters as may appear to be just and reasonable.

Upon Application by a Defendant in an Action of Assumpsit, &c. stating that the Right in the Subject Matter is in a Third Party, the Court may order such Third Party to appear and maintain or relinquish his Claim, and in the meantime stay Proceedings in such Action.

Judgment  
and Decision  
to be final.

II. And be it further enacted, That the judgment in any such action or issue as may be directed by the court or judge, and the decision of the court or judge in a summary manner, shall be final and conclusive against the parties, and all persons claiming by, from, or under them.

If such Third  
Party shall  
not appear,  
&c. the Court  
may bar his  
Claim against  
the original  
Defendant.

III. And be it further enacted, That if such third party shall not appear upon such rule or order to maintain or relinquish his claim, being duly served therewith, or shall neglect or refuse to comply with any rule or order to be made after appearance, it shall be lawful for the court or judge to declare such third party, and all persons claiming by, from, or under him, to be for ever barred from prosecuting his claim against the original defendant, his executors or administrators; saving, nevertheless, the right or claim of such third party against the plaintiff; and thereupon to make such order between such defendant and the plaintiff, as to costs and other matters, as may appear just and reasonable.

Proviso as to  
Orders made  
by a single  
Judge.

IV. Provided always, and be it further enacted, That no order shall be made in pursuance of this Act by a single judge of the Court of Pleas of the said County Palatine of Durham, who shall not also be a judge of one of the said courts at Westminster, and that every order to be made in pursuance of this Act by a single judge not sitting in open court shall be liable to be rescinded or altered by the court in like manner as other orders made by a single judge.

If a Judge  
thinks the  
Matter more  
fit for the  
Decision of  
the Court, he  
may refer it.

V. Provided also, and be it further enacted, That if, upon application to a judge, in the first instance, or in any later stage of the proceedings, he shall think the matter more fit for the decision of the court, it shall be lawful for him to refer the matter to the court; and thereupon the court shall and may hear and dispose of the same in the same manner as if the proceeding had originally commenced by rule of court, instead of the order of a judge.

For Relief of  
Sheriffs and  
other Officers  
in Execution  
of Process  
against  
Goods and  
Chattels.

VI. And whereas difficulties sometimes arise in the execution of process against goods and chattels, issued by or under the authority of the said courts, by reason of claims made to such goods and chattels by assignees of bankrupts and other persons not being the parties against whom such

process has issued, whereby sheriffs and other officers are exposed to the hazard and expense of actions ; and it is reasonable to afford relief and protection in such cases to such sheriffs and other officers ; be it therefore further enacted, That when any such claim shall be made to any goods or chattels taken or intended to be taken in execution under any such process, or to the proceeds or value thereof, it shall and may be lawful to and for the court from which such process issued, upon application of such sheriff or other officer made before or after the return of such process, and as well before as after any action brought against such sheriff or other officer, to call before them, by rule of court, as well the party issuing such process as the party making such claim, and thereupon to exercise, for the adjustment of such claims and the relief and protection of the sheriff or other officer, all or any of the powers and authorities herein-before contained, and make such rules and decisions as shall appear to be just, according to the circumstances of the case ; and the costs of all such proceedings shall be in the discretion of the court.

VII. And be it further enacted, That all rules, orders, matters, and decisions to be made and done in pursuance of this Act, except only the affidavits to be filed, may, together with the declaration in the cause (if any), be entered of record, with a note in the margin expressing the true date of such entry, to the end that the same may be evidence in future times, if required, and to secure and enforce the payment of costs directed by any such rule or order ; and every such rule or order so entered shall have the force and effect of a judgment, except only as to becoming a charge on any lands, tenements, or hereditaments ; and in case any costs shall not be paid within fifteen days after notice of the taxation and amount thereof given to the party ordered to pay the same, his agent or attorney, execution may issue for the same by fieri facias or capias ad satisfaciendum, adapted to the case, together with the costs of such entry, and of the execution if by fieri facias ; and such writ and writs may bear teste on the day of issuing the same, whether in term or vacation ; and the

*Rules, Orders, &c. made in pursuance of this Act may be entered of Record, and made Evidence.*

*Costs.*

*Writs.*

*Sheriffs' Fees.*

sheriff or other officer executing any such writ shall be entitled to the same fees, and no more, as upon any similar writ grounded upon a judgment of the court.

Upon any Application under 1 W. 4. c. 21. and this Act, the Court to exercise such Powers and make such Rules as are given by or mentioned in this Act.

VIII. And whereas by a certain Act made and passed in the last Session of Parliament, intituled "An Act to improve the Proceedings in Prohibition and on Writs of Mandamus," it was among other things enacted, That it should be lawful for the court to which application may be made for any such writ of mandamus as is therein in that behalf mentioned to make rules and orders, calling not only upon the person to whom such writ may be required to issue, but also all and every other person having or claiming any right or interest in or to the master of such writ, to show cause against the issuing of such writ and payment of the costs of the application, and upon the appearance of such other person in compliance with such rules, or in default of appearance after service thereof, to exercise all such powers and authorities, and make all such rules and orders applicable to the case, as were or might be given or mentioned by or in any Act passed or to be passed during that present Session of Parliament for giving relief against adverse claims made upon persons having no interest in the subject of such claims: And whereas no such Act was passed during the then present Session of Parliament; be it therefore enacted, That upon any such application as is in the said Act and herein-before mentioned, it shall be lawful for the court to exercise all such powers and authorities, and make all such rules and orders applicable to the case, as are given or mentioned by or in this present Act.

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## CAP. XXXIX.

*An Act for Uniformity of Process in Personal Actions  
in His Majesty's Courts of Law at Westminster.*

[23d May, 1832.]

WHEREAS the process for the commencement of personal actions in his Majesty's superior courts of law at Westminster is, by reason of its great variety and multiplicity, very inconvenient in practice ; for remedy thereof be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That the process in all such actions commenced in either of the said courts, in cases where it is not intended to hold the defendant to special bail, or to proceed against a Member of Parliament according to the provisions contained in the statute passed in the sixth year of the reign of his late Majesty King George the Fourth, intituled "An Act to amend the Laws relating to Bankrupts," shall, whether the action be brought by or against any person entitled to the privilege of peerage or of Parliament, or of the court wherein such action shall be brought, or of any other court, or to any other privilege, or by or against any other person, be according to the form contained in the Schedule to this Act annexed marked No. 1, and which process may issue from either of the said courts, and shall be called a writ of summons ; and in every such writ, and copy thereof, the place and county of the residence or supposed residence of the party defendant, or wherein the defendant shall be or shall be supposed to be, shall be mentioned ; and such writ shall be issued by the officer of the said courts respectively by whom process serviceable in the county therein mentioned hath been heretofore issued from such court ; and every such writ may be served in the manner heretofore used in the county therein mentioned, or within two hundred yards of the border thereof, and

Serviceable  
Process for  
the Com-  
mencement  
of Personal  
Actions.



not elsewhere, and the person serving the same shall and is hereby required to indorse on the writ the day of the month and week of the service thereof.

Mode of  
Appearance  
to service-  
able Process.

II. And be it further enacted, That the mode of appearance to every such writ, or under the authority of this act, shall be by delivering a memorandum in writing according to the form contained in the said Schedule, and marked No. 2, such memorandum to be delivered to such officer or person as the court out of which the process issued shall direct, and to be dated on the day of the delivery thereof.

Appearance  
may be en-  
forced by  
Writ of Dis-  
tringas in  
case a De-  
fendant can-  
not be served  
with the  
Writ of Sum-  
mons.

III. And be it further enacted, That in case it shall be made appear by affidavit, to the satisfaction of the court out of which the process issued, or, in vacation, of any judge of either of the said courts, that any defendant has not been personally served with any such writ of summons as herein-before mentioned, and has not, according to the exigency thereof, appeared to the action, and cannot be compelled so to do without some more efficacious process, then and in any such case it shall be lawful for such court or judge to order a writ of distringas to be issued, directed to the sheriff of the county wherein the dwelling-house or place of abode of such defendant shall be situate, or to the sheriff of any other county, or to any other officer to be named by such court or judge, in order to compel the appearance of such defendant; which writ of distringas shall be in the form, and with the notice subscribed thereto, mentioned in the Schedule to this Act, marked No. 3; which writ of distringas and notice, or a copy thereof, shall be served on such defendant, if he can be met with, or, if not, shall be left at the place where such distringas shall be executed; and a true copy of every such writ and notice shall be delivered together therewith to the sheriff or other officer to whom such writ shall be directed; and every such writ shall be made returnable on some day in term, not being less than fifteen days after the teste thereof, and shall bear teste on the day of the issuing thereof, whether in term or in vacation; and if such writ of distringas shall be returned *non est inventus* and *nulla bona*, and the party suing out such writ shall not intend to proceed to outlawry or

waiver, according to the authority herein-after given, and any defendant against whom such writ of distringas issued shall not appear at or within eight days inclusive after the return thereof, and it shall be made appear by affidavit to the satisfaction of the court out of which such writ of distringas issued, or, in vacation, of any judge of either of the said courts, that due and proper means were taken and used to serve and execute such writ of distringas, it shall be lawful for such court or judge to authorize the party suing out such writ to enter an appearance for such defendant, and to proceed thereon to judgment and execution.

IV. And be it further enacted, That in all such actions wherein it shall be intended to arrest and hold any person to special bail who may not be in the custody of the Marshal of the Marshalsea of the Court of King's Bench or of the Warden of the Fleet Prison, the process shall be by writ of capias according to the form contained in the said Schedule and marked No. 4; and so many copies of such process, together with every memorandum or notice subscribed thereto, and all indorsements thereon, as there may be persons intended to be arrested thereon or served therewith, shall be delivered therewith to the sheriff or other officer or person to whom the same may be directed, or who may have the execution and return thereof, and who shall, upon or forthwith after the execution of such process, cause one such copy to be delivered to every person upon whom such process shall be executed by him, whether by service or arrest, and shall indorse on such writ the true day of the execution thereof, whether by service or arrest; and if any defendant be taken or charged in custody upon any such process, and imprisoned for want of sureties for his appearance thereto, the plaintiff in such process may, before the end of the next term after the detainer or arrest of such defendant, declare against such defendant, and proceed thereon in the manner and according to the directions contained in a certain Act of Parliament made in the fourth and fifth years of the reign of King William and Queen Mary, intituled "An Act for delivering Declarations against Prisoners:" Provided always, that it shall be lawful for the

Bailable Process for the Commencement of Personal Actions.

4 & 5 W.  
& M. c. 21.

plaintiff or his attorney to order the sheriff, or other officer or person to whom such writ shall be directed, to arrest one or more only of the defendants therein named, and to serve a copy thereof on one or more of the others, which order shall be duly obeyed by such sheriff or other officer or person; and such service shall be of the same force and effect as the service of the writ of summons herein-before mentioned, and no other.

Proceedings  
to Outlawry.

V. And be it further enacted, That upon the return of *non est inventus* as to any defendant against whom such writ of *capias* shall have been issued, and also upon the return of *non est inventus* and *nulla bona* as to any defendant against whom such writ of *distringas* as herein-before mentioned shall have issued, whether such writ of *capias* or *distringas* shall have issued against such defendant only, or against such defendant and any other person or persons, it shall be lawful, until otherwise provided for, to proceed to outlaw or waive such defendant by writs of *exigi facias* and proclamation, and otherwise, in such and the same manner as may now be lawfully done upon the return of *non est inventus* to a pluries writ of *capias ad respondendum* issued after an original writ: Provided always, that every such writ of exigent proclamation, and other writ subsequent to the writ of *capias* or *distringas*, shall be made returnable on a day certain in term; and every such first writ of exigent and proclamation shall bear teste on the day of the return of the writ of *capias* or *distringas*, whether such writ be returned in term or in vacation; and every subsequent writ of exigent and proclamation shall bear teste on the day of the return of the next preceding writ; and no such writ of *capias* or *distringas* shall be sufficient for the purpose of outlawry or waiver if the same shall be returned within less than fifteen days after the delivery thereof to the sheriff or other officer to whom the same shall be directed.

Proceedings  
to Outlawry  
may be had  
after Judgment  
given  
under the  
Authority of  
this Act.

VI. And be it further enacted, That after judgment given in any action commenced by writ of summons or *capias* under the authority of this Act, proceedings to outlawry or waiver may be had and taken, and judgment of outlawry or waiver given, in such manner and in such cases as may now be law-

fully done after judgment in an action commenced by original writ: Provided always, that every outlawry or waiver had under the authority of this Act shall and may be vacated or set aside by writ of error or motion, in like manner as outlawry or waiver founded on an original writ may now be vacated or set aside.

VII. And be it further enacted, That for the purpose of proceeding to outlawry and waiver upon such writs of *capias* or *distringas* returnable in the Court of Exchequer, it shall and may be lawful for the Lord Chief Baron of the said court, and he is hereby required, to appoint from time to time a fit person, holding some other office in the said court, to execute the duties of a filazer, exigenter, and clerk of the outlawries in the same court.

Filazer to be appointed in the Court of Exchequer.

VIII. And be it further enacted, That when it shall be intended to detain in any such action any person being in the custody of the Marshal of the Marshalsea of the Court of King's Bench or of the Warden of the Fleet Prison, the process of detainer shall be according to the form of the writ of detainer contained in the said Schedule and marked No. 5; and a copy of such process, and of all indorsements thereon, shall be delivered together with such process to the said Marshal or Warden to whom the same shall be directed, and who shall forthwith serve such copy upon the defendant personally, or leave the same at his room, lodging, or other place of abode; and such process may issue from either of the said courts, and the declaration thereupon shall and may allege the prisoner to be in the custody of the said Marshal or Warden, as the fact may be, and the proceedings shall be as against prisoners in the custody of the sheriff, unless otherwise ordered by some rule to be made by the judges of the said courts.

Mode of detaining a Prisoner in the Custody of the Marshal or of the Warden of the Fleet.

IX. And be it further enacted, That in all such actions wherein it shall be intended to proceed against a Member of Parliament according to the provisions of the said statute made in the sixth year of the reign of his late Majesty King George the Fourth, the process shall be according to the form contained in the said Schedule marked No. 6, and which pro-

Mode of Proceeding against a Member of Parliament to enforce the Stat. 6 G. 4. c. 16. s. 10.

cess and a copy thereof shall be in lieu of the summons; or original bill and summons, and copy thereof, mentioned in the said statute.

Duration of  
Writs.

X. And be it further enacted, That no writ issued by authority of this Act shall be in force for more than four calendar months from the day of the date thereof, including the day of such date, but every writ of summons and capias may be continued by alias and pluries, as the case may require, if any defendant therein named may not have been arrested thereon or served therewith: Provided always, that no first writ shall be available to prevent the operation of any statute whereby the time for the commencement of the action may be limited, unless the defendant shall be arrested thereon or served therewith, or proceedings to or toward outlawry shall be had thereupon, or unless such writ, and every writ (if any) issued in continuation of a preceding writ, shall be returned *non est inventus* and entered of record within one calendar month next after the expiration thereof, including the day of such expiration, and unless every writ issued in continuation of a preceding writ shall be issued within one such calendar month after the expiration of the preceding writ, and shall contain a memorandum indorsed thereon or subscribed thereto, specifying the day of the date of the first writ: and return to be made in bailable process by the sheriff or other officer to whom the writ shall be directed, or his successor in office, and in process not bailable, by the plaintiff or his attorney suing out the same, as the case may be.

Proviso as to  
Statute of  
Limitations.

Proceedings  
on Writs  
served or  
executed at  
certain  
Times.

XI. And whereas, according to the present practice, in certain cases no proceedings can be effectually had on any writ returnable within four days of the end of any term, until the beginning of the ensuing term, whereby an unnecessary delay is sometimes created; for remedy thereof be it enacted, That if any writ of summons, capias, or detainer issued by authority of this Act shall be served or executed on any day, whether in term or vacation, all necessary proceedings to judgment and execution may, except as herein-after provided, be had thereon, without delay, at the expiration of eight days from the service or execution thereof, on whatever

day the last of such eight days may happen to fall, whether in term or vacation : Provided always, that if the last of such eight days shall in any case happen to fall on a Sunday, Christmas Day, or any day appointed for a public fast or thanksgiving, in either of such cases the following day shall be considered as the last of such eight days ; and if the last of such eight days shall happen to fall on any day between the Thursday before and the Wednesday after Easter Day, then in every such case the Wednesday after Easter Day shall be considered as the last of such eight days : Provided also, that if such writ shall be served or executed on any day between the tenth day of August and the twenty-fourth day of October in any year, special bail may be put in by the defendant in bailable process, or appearance entered, either by the defendant or the plaintiff, on process not bailable, at the expiration of such eight days : Provided also, that no declaration, or pleading after declaration, shall be filed or delivered between the said tenth day of August and twenty-fourth day of October.

XII. And be it further enacted, That every writ issued by authority of this act shall bear date on the day on which the same shall be issued, and shall be tested in the name of the lord chief justice or lord chief baron of the court from which the same shall issue, or in case of a vacancy of such office, then in the name of a senior puisne judge of the said court, and shall be indorsed with the name and place of abode of the attorney actually suing out the same, and in case such attorney shall not be an attorney of the court in which the same is sued out, then also with the name and place of abode of the attorney of such court in whose name such writ shall be taken out ; but in case no attorney shall be employed for that purpose, then with a memorandum expressing that the same has been sued out by the plaintiff in person, mentioning the city, town, or parish, and also the name of the hamlet, street, and number of the house of such plaintiff's residence, if any such there be.

XIII. And be it further enacted, That every such writ of summons issued against a corporation aggregate may be

*Proviso for  
Sunday, &c.*

*Date and  
Teste of  
Writs.*

*Indorsement  
of the Name  
of the Attor-  
ney or Party  
suing.*

*Service of  
Writs of  
Summon on*

Corporations  
and on Inha-  
bitants of  
Hundreds  
and Towns.

served on the mayor or other head officer, or on the town clerk, clerk, treasurer, or secretary of such corporation; and every such writ issued against the inhabitants of a hundred or other like district may be served on the high constable thereof, or any one of the high constables thereof; and every such writ issued against the inhabitants of any county of any city or town, or the inhabitants of any franchise, liberty, city, town, or place not being part of a hundred or other like district, on some peace officer thereof.

General  
Rules to be  
made by the  
Judges.

XIV. And be it further enacted, That it shall and may be lawful to and for the judges of the said courts, and they are required, from time to time to make all such general rules and orders for the effectual execution of this act, and of the intention and object hereof, and for fixing the costs to be allowed for and in respect of the matters herein contained, and the performance thereof, as in their judgment shall be deemed necessary or proper, and for that purpose to meet as soon as conveniently may be after the passing hereof.

Rules and  
Orders may  
be made for  
the Return  
of Writs.

XV. And be it further enacted, That it shall be lawful, in Term time, for the court out of which any writ issued by authority of this act, or any writ of *capias ad satisfaciendum*, *fieri facias*, or *elegit*, shall have issued, to make rules, and also for any judge of either of the said courts, in vacation, to make orders, for the return of any such writ; and every such order shall be of the same force and effect as a rule of court made for the like purpose; Provided always, that no attachment shall issue for disobedience thereof until the same shall have been made a rule of court.

Proceedings  
in default of  
Appearance  
or Special  
Bail.

XVI. And be it further enacted, That all such proceedings as are mentioned in any writ, notice, or warning issued under this act, shall and may be had and taken in default of a defendant's appearance or putting in special bail, as the case may be.

Attorney to  
declare whe-  
ther Writ is-  
sued by his  
Authority;  
and to de-  
clare Name  
and Place of  
Abode of his

XVII. And be it further enacted, That every attorney whose name shall be indorsed on any writ issued by authority of this act shall, on demand in writing made by or on behalf of any defendant, declare forthwith whether such writ has been issued by him, or with his authority or privity; and if

he shall answer in the affirmative, then he shall also, in case the court or any judge of the same or of any other court shall so order and direct, declare in writing, within a time to be allowed by such court or judge, the profession, occupation, or quality, and place of abode of the plaintiff, on pain of being guilty of a contempt of the court from which such writ shall have appear to have been issued ; and if such attorney shall declare that the writ was not issued by him, or with his authority or privity, the said court, or any judge of either of the said courts, shall and may, if it shall appear reasonable so to do, make an order for the immediate discharge of any defendant or defendants who may have been arrested on any such writ, on entering a common appearance.

Client, if ordered.

If Writ not issued by Authority of the Attorney, the Defendant may be discharged.

XVIII. And be it further enacted, That it shall and may be lawful to and for the judges of each of the said courts from time to time to make such rules and orders for the government and conduct of the ministers and officers of their respective courts, in and relating to the distribution and performance of the duties and business to be done and performed in the execution of this act, as such judges may think fit and reasonable ; Provided always, that no additional charge be thereby imposed on the suitors.

Rules to be made by the Courts for the Government of their Ministers and Officers.

XIX. Provided always, and be it further enacted, That nothing in this act contained shall subject any person to arrest, outlawry, or waiver, who, by reason of any privilege, usage, or otherwise, may now by law be exempt therefrom, or shall extend to any cause removed into either of the said courts by writ of pone, certiorari, recordari, facias loquelam, habeas corpus, or otherwise.

Proviso for Persons privileged from Arrest, &c.

XX. And whereas there are in divers parts of England certain districts and places, parcel of some one county, but wholly situate within and surrounded by some other county, which is productive of inconvenience and delay in the service and execution of the process of the said courts ; for remedy thereof be it enacted, That every such district and place shall and may, for the purpose of the service and execution of every writ and process, whether mesne or judicial, issued out of either of the said courts, be deemed and taken to be part as

Places, Parcel of one County and situate in another, to be deemed Part of each.



well of the county wherein such district or place is so situate as aforesaid as of the county whereof the same is parcel ; and every such writ and process may be directed accordingly, and executed in either of such counties.

Writs herein-  
before autho-  
rized to be,  
the only  
writs for  
Commence-  
ment of per-  
sonal Ac-  
tions.

XXI. And be it further enacted, That from the time when this act shall commence and take effect, the writs herein-before authorized shall be the only writs for the commencement of personal actions in any of the courts aforesaid; in the cases to which such writs are applicable ; and the costs to be allowed and charged for such writs shall be the same as for writs of latitat : Provided always, that nothing in this act contained shall abridge, alter, or effect the franchises and jurisdictions of either of the Counties Palatine of Lancaster or Durham, or of any officer or minister thereof.

Commence-  
ment of Act.

XXII. And be it further enacted, That this act shall commence and take effect on the first day of *Michaelmas* Term next after the passing hereof.

Act may be  
altered this  
Session.

XXIII. And be it further enacted, That this act may be amended, altered, or repealed during the present Session of Parliament.

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#### CAP. CX.

*An Act for the better Regulation of the Duties to be performed by the Officers on the Plea or Common Law Side of the Court of Exchequer.*

[15th August, 1832.]

WHEREAS an act was passed in the first year of the reign of his present Majesty, intituled, “ An Act for the more effectual Administration of Justice in England and Wales ; and by the said act certain changes were made on the Plea or Common Law Side of the Court of Exchequer : And whereas, William Stewart Rose, Esquire, now is clerk of the Pleas in the said court, and is lawfully entitled to execute the said office, by himself, or his sufficient deputy, during the term of his natural life, and Thomas Dax, Esquire (commonly called the master)

now is deputy clerk of the Pleas, and Stephen Richards, Kenrick Collett, Edmund Walker, and George Chilton, Esquires, are the four sworn clerks in the said court ; and the said Thomas Dax, Stephen Richards, Kenrick Collett, Edmund Walker, and George Chilton, are the five principal acting officers of the said court : And whereas the business in the offices on the Plea or Common Law side of the said court has greatly increased, and the same since the passing of the said act has been conducted and performed by the said deputy clerk of the Pleas and the said four sworn clerks, but without any regulation as to the respective duties to be performed by each ; and many of the duties of the master have, from necessity, been performed by the sworn clerks, but without any obligation upon them to perform such duties ; and it is expedient to apportion such business among the said officers, and to fix and determine the duties to be performed by them respectively : Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That from and after the commencement of this act there shall continue to be five principal officers on the Plea side of the said Court (exclusive of the said William Stewart Rose, Esquire, the said clerk of the Pleas), and no more ; and that the said Thomas Dax, Stephen Richards, Kenrick Collett, Edmund Walker, and George Chilton, Esquires, who have so conducted the business on the Plea side of the said court, and their successors, shall, from and after the passing of this Act, perform the same as follows ; that is to say, the said Thomas Dax, Kenrick Collett, and Edmund Walker shall perform the duties of master and prothonotary, the said Stephen Richards the duties of clerk of the rules, and the said George Chilton the duties of filazer of the said court, and the said officers shall be styled and designated accordingly ; and if any doubt or difference shall at any time arise respecting the duties to be performed by the said respective officers, the same shall be settled and deter-

There shall be five principal officers on the Plea side of the Court, exclusive of the clerk of the Pleas.

Their Offices.

mined by the Lord Chief Baron and the other barons of the said court for the time being.

Offices to be held during good behaviour, with such Assistants as the Court may deem necessary.

II. And be it further enacted, That such officers and their successors shall hold their said offices during good behaviour, and shall and may, in and for the discharge of the duties of their respective offices, have such assistants and clerks as the Lord Chief Baron and the other barons of the said court for the time being shall determine to be necessary and proper; and that such assistants and clerks shall and may be appointed by such officers respectively, subject to the approbation of the Lord Chief Baron for the time being; and that each of the said officers shall at all times be responsible for the conduct of such of the said assistants and clerks whom he shall appoint.

Persons holding any of the Offices, or their Assistants, not to act as Attorneys or Agents.

III. And be it further enacted, That from and after the second day of *Easter Term*, one thousand eight hundred and thirty-three, no person holding any of the said offices, or being an assistant or clerk to any of the said officers, shall act as an attorney or solicitor, or agent of an attorney or solicitor, in any court of law or equity in the United Kingdom of Great Britain and Ireland, either separately or in partnership with any other, during such time as he shall hold such office or act as such assistant or clerk.

Clerk of the Errors.

IV. And be it further enacted, That the office of clerk of the errors, now filled and executed by the said Thomas Dax, shall continue to be filled and executed by him as long as he shall be a master or prothonotary of the said court, and no longer, and the same shall always hereafter be filled by the person who shall be the senior master or prothonotary of the court for the time being.

Attendance and hours of business to be as directed by the Court.

V. And be it further enacted, That the said officers, and their assistants and clerks, shall give their attendance in court or elsewhere, and shall conduct the business in their several departments, at such hours, and in every respect in such manner, as the said Lord Chief Baron and other barons of the said court shall from time to time order and direct.

In case of sickness, &c. Leave of absence.

VI. Provided always, and be it enacted, That if either of the said officers shall, from sickness or other reasonable cause,

have occasion to be absent from the business of his said office, then and in every such case it shall and may be lawful for such officer, by and with the permission of the Lord Chief Baron for the time being, or, in his absence, of some other baron of the said court, to give leave of absence, by his order in writing, to such officer, and, if necessary, to appoint a deputy in his place or stead during such time as shall be expressed in such order; and the name of such deputy, and also the cause and time of such absence, shall be stated in such order; and such deputy may, if occasion shall require it, be changed by the said Lord Chief Baron, or, in his absence, by some other baron of the said court; and every such deputy shall be paid by the principal for whom he shall so act as aforesaid, and as the said Lord Chief Baron, or other baron of the said court, shall direct in such order.

VII. And be it further enacted, That if either of the said offices shall become vacant, or if any such officer shall be unable to act in his said office from sickness or any other cause, and shall be unable to appoint a deputy, then and in every such case it shall and may be lawful for the Lord Chief Baron, by warrant under his hand and seal, to appoint a person to perform the duty of such officer until there shall be an effective officer to discharge the same; and such person so appointed shall, during the continuance of such deputation or appointment, have all and every the rights, emoluments, powers, and authorities, and shall be subject, to the same liabilities, as such officer whose duty he shall so have been appointed to perform would have possessed or been liable to.

VIII. And be it further enacted, That when a vacancy shall occur in the said office of clerk of the Pleas, by the demise of the said William Stewart Rose, Esquire, or otherwise, the said office shall not again be filled up, but the same shall from thenceforth cease and determine.

IX. And be it further enacted, That if any vacancy shall occur in either of the said offices of master and prothonotary during the lifetime of the said William Stewart Rose, and while he shall hold the said office of Clerk of the Pleas as aforesaid, the said William Stewart Rose shall, as often as

sence may be granted, and, if necessary, a Deputy appointed.

The Lord Chief Baron, in certain cases, may fill up vacancies until there shall be an effective Officer.

Office of Clerk of the Pleas not to be again filled up.

As to the filling up of vacancies in the Offices of Master and Prothonotary;

such vacancy shall happen, appoint a person to succeed to such office, subject to the approbation of the Lord Chief Baron for the time being; and after the death of the said William Stewart Rose, or other determination of his said office; when any vacancy shall occur in either of the said offices of master and prothonotary, the Lord Chief Baron of the said court for the time being shall appoint a fit and proper person to fill the same; and when, at any time after the passing of this Act, any vacancy shall occur in the offices of clerk of the Rules and Filazer of the said court, the Lord Chief Baron for the time being shall appoint a fit and proper person to fill such office.

and of the  
Clerk of the  
Rules and  
Filazer.

Salaries of  
the said five  
Officers to be  
fixed by the  
Court, and  
paid out of  
the Fees.

X. And be it further enacted, That the said five officers shall receive, by way of salary, for performing the duties of their respective offices, such annual sum as the Lord Chief Baron and the other barons of the said court, with the approbation of the Lords Commissioners of his Majesty's Treasury, shall think proper, to commence and be computed and payable from the twelfth day of October, one thousand eight hundred and thirty, the said salaries to be retained and paid out of the fees by law payable in respect of the duties performed by the officers of the common law side of the said court; and the surplus of such fees, after deducting the expenses of assistants and clerks, the amount of which shall be fixed and regulated by the said court, and the other necessary expenses of the said office, shall be accounted for once every year, upon oath, before the Lord Chief Baron and other barons of the said court, and the balance, if any, shall be paid over to the Lords Commissioners of his Majesty's Treasury; and any sum which may be awarded to the said officers by the commissioners, or any or either of them, under the Act passed in the first year of the reign of his present Majesty, intituled "An Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law," shall be taken into consideration in fixing and ascertaining their said respective salaries.

Surplus of  
Fees to be ac-  
counted for  
yearly.

W. S. Rose,  
Esq. to re-

XI. And be it further enacted, That there shall be paid

to the said William Stewart Rose such annual sum as the Lord Chief Baron and other barons of the said court, with the approbation of the Lord's Commissioners of his Majesty's Treasury, shall think proper, out of the said fees, until the said Commissioners under the said Act of the first year of the reign of his present Majesty shall make their report upon the claim made by the said William Stewart Rose under the said last-mentioned Act.

ceive an annual sum until Commissioners make their report.

XII. Provided always, and be it further enacted, That no officer or other person named in or appointed by virtue of this Act shall be entitled to have or claim any compensation whatever for or by reason or in consequence of any such office being regulated, or abolished by law or the orders of the said court, or otherwise.

Officers not entitled to compensation if Offices abolished.

XIII. And be it further enacted, That this Act, and every clause and matter therein contained, shall commence and have effect immediately from and after the passing of the same.

Commencement of Act.

XIV. And be it further enacted, That this Act may be amended, altered, or repealed during the present session.

Act may be altered.

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## RULES OF COURT.

### IN THE EXCHEQUER OF PLEAS.

*Michaelmas Term, in the first year of the reign of King William the Fourth, and in the year of our Lord, 1830.*

Fees of the  
Sworn and  
Side Clerks.

In pursuance of an Act passed in the first year of his present Majesty's reign, entitled "An Act for the more effectual administration of justice in England and Wales," It is ordered by the court, That the several fees hereunder mentioned shall and may continue to be taken by the sworn and side clerks of this court, the same being for duties to be performed by them as officers of the court, similar to the duties of the other superior courts: And it is further ordered, That in the taxation and allowance of costs, such fees shall be distinguished from, and form no part of, the fees and charges which shall be allowed to the attornies who have been or shall be admitted to practise under and by virtue of the said act, but the same shall be allowed as disbursements.

#### THE FEES ABOVE REFERRED TO.

	£	s.	d.
On process of subpoena ad respondendum . . . .	0	1	6
Filing affidavit of service of subpoena . . . .	0	1	0
Attachment for not appearing to subpoena . . . .	0	1	6
Alias and pluries attachment . . . . .	0	1	6
On every appearance in the paper-book for one defendant . . . . .	0	1	0
For every additional defendant . . . . .	0	0	4
On special bail and filing . . . . .	0	4	4
For taking bail off the file to produce in court . . . .	0	1	0
Filing all affidavits (not excepted by Act of Parliament), postea, and inquisitions . . . . .	0	1	0

# *Rules of Court.*

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	£	s.	d.
Searching for all writs, affidavits, and processes, each time, per term . . . . .	0	0	4
Searching for judgments, and all matters of record, per term . . . . .	0	0	4
Office copies of all affidavits, and other matters of record, per folio . . . . .	0	0	8
Office copies of all rules, per folio . . . . .	0	0	4
On taking all pleadings out of the office fourpence per folio, according to the number of folios marked on the pleadings by the party filing the same, per folio . . . . .	0	0	4
On filing declarations . . . . .	0	0	4
Enrolling deeds, and other matters required to be enrolled, per folio . . . . .	0	0	4
For every warrant of attorney . . . . .	0	0	4
For entering every rule . . . . .	0	0	4
For drawing a copy of every order of court, per folio . . . . .	0	0	8
For exemplifying a record, per folio . . . . .	0	0	4
For entering a certiorari out of Chancery . . . . .	0	3	4
For acknowledging satisfaction on record . . . . .	0	4	8
For every release . . . . .	0	2	0
For entering an audita querela . . . . .	0	3	4
For attending every trial at bar . . . . .	1	0	0
For every exhibit read at a trial at bar . . . . .	0	1	0
For entering all proceedings on writs of error, per folio . . . . .	0	0	4
For enrolling writs of error . . . . .	0	6	8
For office copies of all pleadings when required, per folio . . . . .	0	0	4
For each writ of sequestrations on attachment . . . . .	0	1	0

That the several duties for which fees are appointed in the said schedule shall be performed by the sworn and side clerks of the said office, or their sufficient deputies or deputy, on the request of the persons now or hereafter admitted to practise as attorneys in this court within the hours and times hereinafter appointed, whereupon such fees as aforefaid shall become payable.

Duties of the  
Side and  
Sworn Clerks.



Duties of the Master.

That the several duties heretofore performed by the clerk of the Pleas or his deputy, at the instance of the sworn or side clerks of the office of Pleas, shall hereinafter, at the instance of and for the attornies admitted as aforesaid, be in like manner performed by the said clerk of the Pleas or his deputy, on payment of his lawful fees for the same.

Office Hours at the Exchequer Office.

That the said office of Pleas shall be kept open for business every day (Sundays, Christmas-day, Good Friday, Easter Monday, Ascension-day, and Midsummer-day, and days appointed for public feasts, thanksgiving, or fasts, excepted), from the hours of eleven in the morning till three in the afternoon, and from five o'clock in the afternoon till nine o'clock at night during term, and for sixteen days after an issuable term, and for ten days after a non-issuable term, and at other times till seven o'clock in the evening.

Appointment of Attornies admitted to sue and defend in Actions previously commenced.

That in all actions which, before the first day of this present term, were pending in this court, the parties, plaintiffs or defendants, shall and may be at liberty to apply to one of the barons of this court for an order, appointing any person, who shall then be an attorney of this court, to be his or her attorney in further prosecuting or defending such action, upon undertaking to pay the sworn or side clerks previously employed by him or her, his costs incurred in such action to be taxed, if required, by the master ; and that service of such order on the opposite party or parties, or his or her attorney, shall be sufficient notice to him or them of such appointment.

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*Michaelmas Term, first year of King William the Fourth.*

The Name and Address of Attorney and the Day, Month, and Year, to be endorsed on all Writs.

It is ordered, That henceforth the name and address of the attorney issuing any writ shall be indorsed or written thereon ; and also that the day, month, and year, in which the same shall be issued, shall be endorsed or written on all writs hereafter to be issued in the office of Pleas of this court, and if the same be meane process, other than a writ of subpoena ad respondendum, a præcipe or particular of such writ, contain-

Præcipe for Writs other

ing the county into which the same shall issue, the names of every party, plaintiff and defendant, therein, the time of the return thereof, the name and address of the attorney issuing the same, and the day of the date on which the same shall be so issued, shall be delivered to the clerk or deputy clerk of the Pleas, on his being required to sign such writ, which præcipe shall be duly filed on files to be provided by the said clerk of the Pleas, or his deputy, for each term and vacation, according to the county into which the same shall be issued; and if such process be subpoena ad respondendum, and process of contempt thereon, and writ of supersedeas thereto, a præcipe shall in like manner be left with the sworn or side clerks, or their deputies, in the office of Pleas, containing the names of every party, plaintiff and defendant, therein, the time of the return thereof, the name and address of the attorney issuing the same, and the day of the date on which the same shall be issued, which shall be kept on a similar file by the sworn and side clerks, to which præcipes any attorney of this court, or his clerk, shall have access, on payment of the fee payable in respect thereof.

than Sub-  
poena.

Præcipe for  
Subpoena.

That a copy of all process of subpoena ad respondendum hereafter to be issued out of this court, and of any indorsement thereon, shall be served, and no service thereof shall be effected as heretofore by service of any label or other minute thereof. That where there are more than four defendants in a joint action (residing in the same county) to be commenced in this court, the whole number of such defendants shall be named in one writ, and if the whole number of defendants shall appear by the same attorney, and at the same time, the names of all the defendants shall be inserted in one appearance.

Service of  
subpoena.

Joinder of  
several de-  
fendants in  
one writ.

Appearance.

That all recognizances of bail in actions in the said office of Pleas, when taken or allowed by a baron, shall be left by the attorney for the defendant or defendants with the sworn or side clerks, or their deputy, in the office of Pleas until duly allowed, who shall enter the same in a book to be kept by them for that purpose, having an alphabetical index of reference; which book shall be open to the inspection of the

Recognizances of bail  
when allowed to be left  
at the office of Pleas,

and entered  
in a book,  
to be open for  
inspection.

Notice to be given.

attornies so admitted as aforesaid, or their clerks; and notice of such bail, being allowed and filed in the said office of Pleas, with the names, descriptions, and address of the bail, shall be given by the attorney for the defendant or defendants to the attorney for the plaintiff or plaintiffs, within the times prescribed for giving notice of bail by the former rules of this court, and proceedings may be thereupon had for excepting to and perfecting such bail, within the times, and in like manner as is and are prescribed by the existing rules and practice of this court, except so far as the same may be altered by the present or any subsequent rule of this court.

Appearances to be entered in alphabetical order in a Book.

That on every appearance to be entered by the sworn or side clerks as officers of the said office of Pleas, they shall cause to be put the name and address of the attorney at whose instance, and the day on which the same shall be entered; and such appearance shall be entered by the defendant's name by the said sworn clerks in proper books, having an alphabetical index book of reference, entered by the plaintiff's name, to be provided by the clerk of the Pleas for each term, which books shall be open to the inspection of the said attornies so admitted as aforesaid, and their clerks, without fee or reward.

Declarations de bene esse to be filed and entered in a Book.

That all declarations *de bene esse* shall be filed with the sworn clerks, or their deputy, and shall be entered in alphabetical order in proper books for each term, to be kept by them for that purpose, which books shall at all times within office hours be open to the inspection of the persons admitted to practise as attornies of this court, and their clerks, without fee or reward; and the declaration so filed shall and may be taken out of the office by the defendant, or his attorney, upon payment of the fees payable in respect thereof.

Pleadings, &c. to be served on attornies of adverse parties.

That service of all pleadings, summonses, orders, rules, notices, and other proceedings, heretofore served on the sworn or side clerks at their seats in the said office of Pleas, shall hereafter be served upon the attorney or attornies of the adverse party or parties, by delivering the same to, or leaving the same for him, in the manner hereinafter mentioned, and that henceforth no entry of any notice shall

## Rules of Court.

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be required to be made in any book to be kept in the said office of Pleas as heretofore.

That the clerk of the Pleas, or his deputy, shall forthwith cause to be prepared a proper alphabetical book for the purposes after-mentioned, and that the same shall be publicly kept at the office of the clerk of the Pleas, to be there inspected by any such attorney as aforesaid, or his clerk, without fee or reward ; and that every attorney admitted in this court, and residing in London, or within ten miles of the same, shall forthwith enter in such book, in alphabetical order, his name and place of abode, or some other proper place in London, Westminster, or the Borough of Southwark, or within one mile of the said office, where he may be served with notices, summonses, orders, and rules, in causes depending in this court ; and every attorney hereafter to be admitted, and practising and residing as aforesaid, shall, upon his admission, make the like entry ; and as often as any such attorney shall change his place of abode, or the place where he may be served with notices, summonses, orders, and rules, he shall make the like entry thereof in the said book ; and that all notices, summonses, orders, and rules, which do not require personal service, shall be deemed sufficiently served on such attorney, if a copy thereof be left at the place lastly entered in such book with any person resident at or belonging to such place ; and if any such attorney shall neglect to make such entry, then the fixing up of any notice, or the copy of any summons, order, or rule, for such attorney, in the said office of Pleas, shall be deemed as effectual and sufficient as if the same had been served at such place of residence as aforesaid.

Book to be provided,

in which attorney to enter his name and place where he may be served with notices, &c. ;

and notices, &c. not requiring personal service to be there served.

Service where no entry of place where attorney may be served.

That in all cases where a defendant shall have appeared in any action in the said office of Pleas, and in cases where the plaintiff has entered appearance therein according to the statute, and the defendant shall by an attorney of this court have given notice in writing to the attorney for the plaintiff, or his agent, of his being authorized to act as attorney for such defendant ; all proceedings, notices, summonses, rules, and orders, which according to the practice of this court were

Where the defendant has appeared, or an appearance has been entered (sec. stat.) and an attorney has given notice of acting for defendant, all proceedings, &c. are to be served upon such

attorney,  
before nine  
o'clock.

heretofore delivered by the sworn or side clerks of the other party, plaintiff or defendant, be delivered to, or served upon the attorney or attornies of the other party, plaintiff or defendant, and that all notices, &c. shall be so served or delivered before nine o'clock in the evening.

Notice, &c.  
to tax costs.

That one day's previous notice of the time of taxing costs upon rules, orders, town posteaas and inquisitions, and a copy of the bill of costs and affidavit to increase (if any) shall be given and delivered, by the attorney or attornies of the party or parties whose costs are to be taxed, to the attorney of the other party or parties in the same action, at the time of service of such notice; and that in the case of posteaas and inquisitions in country causes the notice shall be given two days, and the copy and affidavit delivered two days before such taxation.

Declaring on  
writs return-  
able on any  
day of the  
Term.

That upon process of *quo minus* and *venire facias* personally served on a defendant, and upon all writs of *distringas*, whereupon notice, pursuant to the statute 7th and 8th George the Fourth, c. 71, shall be given returnable on any day of the term, the plaintiff shall be at liberty to declare *de bene esse* within eight days after the return thereof, or on appearance in chief: And if plaintiff declare, either conditionally or in chief, in London or Middlesex, and the defendant live within twenty miles of London, the defendant shall plead within four days after such declaration shall be filed or delivered, with notice to plead accordingly, without any imparlance. And in case the plaintiff declare in any other county, or the defendant live above twenty miles from London, the defendant shall plead within eight days after such declaration shall be filed or delivered with notice to plead accordingly, without any imparlance, provided such declaration be filed or delivered on or before the last day of the term in which such process shall be returnable, and a rule to plead be duly entered.

Pleading  
thereto.

Render  
where the  
defendant is  
at large.

That on application by a defendant, or his bail, or either of them for an order of one of the barons of this court to render a defendant to a county gaol, it shall be specified on whose behalf such application shall be made, the state of the proceedings in the cause, for what amount the defendant was

held to bail, and by the sheriff of what county he was arrested, which facts shall be stated in the order; and that on such order being lodged with the gaoler of the county gaol in which such defendant was so arrested, the defendant may be rendered to his custody in discharge of the bail; and that on such lodgment and render a notice thereof, and of the defendant's being actually in custody thereon in writing, signed by the defendant or his bail, or of either of them, or of the attorney or agent of any or either of them, shall be delivered to the plaintiff's attorney or agent, and thereupon the bail for the said defendant shall be wholly exonerated without entering any exoneretur.

And that if a defendant shall be in custody of the gaoler of the county gaol of any county in England or Wales, by virtue of any process issued out of any of his Majesty's superior courts of record, he may be rendered in discharge of his bail in any action depending in this court, in like manner as is hereinbefore provided for a render in discharge of bail, and thereupon the bail shall be wholly exonerated from liability as such bail.

Render where the defendant is in custody.

That wherever a plaintiff shall rule the sheriff on a return of *cepi corpus*, to bring in the body, the defendant shall be at liberty to put in and perfect bail at any time before the expiration of such rule, and that a plaintiff having so ruled, the sheriff shall not proceed on any assignment of the bail bond, until the time has expired to bring in the body as aforesaid.

Justification of bail after a body rule

That hereafter all special bail shall be justified within four days after exception, before a baron at chambers, as well in term as in vacation.

Bail when and where justified.

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*Michaelmas Term, first Year of King William the Fourth.*

WHEREAS by an Act made and passed in the first year of the reign of his present Majesty, intituled, "An Act for the more effectual Administration of Justice in England and

Preamble.

Wales," it is amongst other things enacted, That all the power, authority, and jurisdiction of his Majesty's Court of Session of the said County Palatine of Chester, and of the judges thereof, and of his Court of Exchequer of the said County Palatine, and of the chamberlain and vice-chamberlain thereof, and also of his judges and Courts of Great Sessions in the Principality of Wales, shall cease and determine at the commencement of the said Act, and that all suits at law, then depending in any of the said courts, shall be transferred to the Court of Exchequer, there to be dealt with and decided according to the practice of the said Court of Exchequer, or of the court from whence the same shall be transferred, according to the discretion of the court to which the same shall be transferred, which court shall, for the purpose of such suits only, be deemed and taken to have all the power and jurisdiction, to all intents and purposes, possessed before the passing of this Act by the court from whence such suit shall be removed.

Practice to be adopted in suits from Wales.

This Court doth therefore order, that as to all suits at law depending in any of the said courts on the twelfth day of October last past, the same shall be dealt with and decided according to the practice of this court, unless this court, or a baron thereof at chambers, shall upon special application upon notice to an adverse party otherwise direct.

Mode of proceeding where writs returnable after the jurisdiction of courts in Wales, &c. ceased.

And it is further ordered, That where process shall have been served, and the plaintiff shall not have declared, that the plaintiff shall be at liberty to declare on all process returnable before or in the present term, or before or in next *Hilary* Term, or the vacation following the same, as if the same, as to all process returnable before the end of this present term, had been made returnable in the present term; and as to all process returnable between the end of the present term, and the vacation next following next *Hilary* Term as if the same had been returnable of next *Hilary* Term; and the defendant shall appear to such process, or put in bail thereto, within eight days after notice of this rule, as to writs, the return days whereof shall then be past; and as to writs returnable after the end of the present term, within six

days after the same shall be returnable, and the defendant shall be at liberty to give a rule to declare, and in default of declaration to sign *non pros* accordingly.

And it is further ordered, that in all cases in which a declaration hath been delivered or filed in the Court of Sessions, a certificate thereof shall be obtained under the hand of the late prothonotary, or late deputy prothonotary, of the court in which the same shall be filed, and be verified by affidavit to be entitled in this court; and such certificate and affidavit shall be filed with the deputy clerk of the pleas without fee or reward, and the plaintiff shall thereupon be at liberty to give a rule to plead, and in default of plea to sign judgment in like manner as if the declaration had been filed in this court, an appearance having been first duly entered in this court, if the same shall not have been entered in the said court in which such suit was commenced; and each party shall be at liberty to plead, reply, or take any subsequent proceeding, and to rule an adverse party to proceed in such action as if the same action had been originally commenced in this court, but that no judgment shall be signed for want of declaration, plea, replication, or other proceeding until a rule to declare, plead, reply, rejoin, &c. shall have been first given in the office of Pleas of this court, and demand of declaration, plea, replication, or other proceeding in writing, served on the adverse party or his attorney, according to the practice of this court, so many days before such judgment shall be signed, as the practice of this court requires upon rules to declare, plead, reply, rejoin, &c.

And it is further ordered, That in case any interlocutory or final judgment shall have been signed in any of the said courts abolished by the said act, the plaintiff on filing a certificate thereof, as aforesaid, shall be at liberty to proceed thereon in like manner as if such judgment had been signed in this court, but that in case process of execution shall issue on any final judgment signed in any court abolished by the said act, it shall be stated in such process in what court final judgment was so signed as aforesaid.

Proceedings  
where declaration filed  
in the Courts  
in Wales.

Proceedings  
where interlocutory  
judgment  
signed in  
Courts in  
Wales.



Proceedings  
continued by  
Suggestion.

And it is further ordered, That any proceeding taken in any court abolished by the said act may be continued by way of suggestion in this court, such suggestion being subject to correction upon a summons for that purpose, by any of the barons of this court.

Rules upon  
Sheriffs in  
respect of  
process is-  
sued out of  
Courts  
abolished.

That in case any process shall have issued out of any of the courts abolished by the said act, the sheriff, to whom the same may have been issued, may be ruled to return such process into this court in like manner as if the said process had been returnable in this court, and if such sheriff shall have made a return to the said court so abolished as aforesaid, or shall make a return to this court of *cepi corpus*, he may be ruled in like manner to bring in the body, and process so issued, as last aforesaid, may be returned to this court by the sheriffs of the County of Chester, County of the City of Chester, and Principality of Wales, in like manner as if the same had been returnable in this court.

Returns by  
Sheriffs.

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*Michaelmas Term, first year of King William the Fourth.*

*Nisi Prius*  
days in Term.

It is ordered, that henceforth there shall be two days appointed for the trials of causes at *nisi prius* in term in London, and the like in Middlesex, to be appointed previous to the commencement of each term, and that on such appointment, the hour at which the court will sit shall also be specified.

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*Hilary Term, 1 W. 4.*

Bail to jus-  
tify in Court,  
except in Va-  
cation.

WHEREAS, by a rule of this honourable court, made in *Michaelmas* Term last past, it was ordered, that, hereafter, all special bail should be justified before a baron at chambers, as

well in term as in vacation: And whereas it is expedient to repeal so much of the said rule as relates to the justification of bail in term time—It is, therefore, ordered, that, from and after the present term, the justification of bail in term time shall, (unless by consent), take place, as heretofore, in open court; and that the justification of bail before a baron at chambers shall be confined to cases of consent, and to justification in vacation.

It is ordered, that, from and after this present term, the sitting at *nisi prius*, at the Guildhall, in and for the city of London, shall be the second day after every term, and that such sitting shall be adjourned until such day as the court shall then direct. And it is further ordered, that, in every notice of trial hereafter to be given for the sittings after any term to be holden at the Guildhall aforesaid, it shall be specified whether the cause is intended to be tried on the first day of such sittings, or at the adjournment day; and that, in every case in which such notice shall specify that the cause is to be tried at the adjournment day, it shall be sufficient to give such notice eight days before the first day of the sittings after term, if the defendant or defendants reside above forty miles from the said city of London, and four days before the said first day, if the defendant or defendants reside within that distance.

Adjourned  
sittings in  
London.

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*Michaelmas Term, 2 W. 4.*

It is ordered, that, from and after the last day of this present term, the Exchequer office of Pleas be kept open as follows:—that is to say, during term, and one week after every term, from eleven o'clock in the morning until three o'clock in the afternoon, and from six to nine o'clock in the evening; and at other times, from eleven o'clock in the morning until four o'clock in the afternoon, the usual holidays excepted, when the said office is to be closed.

Office hours  
in Exche-  
quer Office.

## KING'S BENCH, COMMON PLEAS, AND EXCHEQUER.

*Trinity Term, 1 W. 4.*

## PRACTICE.

Bail may be put in and justify at the same time, after four days' notice. Time to inquire, how obtained.

It is ordered, That a defendant may justify bail at the same time at which they are put in, upon giving four days' notice for that purpose, before eleven o'clock in the morning, and exclusive of Sunday. That, if the plaintiff is desirous of time to inquire after the bail, and shall give one day's notice thereof as aforesaid to the defendant, his attorney, or agent, as the case may be, before the time appointed for justification, stating therein what further time is required, such time not to exceed three days in the case of town bail, and six days in the case of country bail, then (unless the court or a judge shall otherwise order) the time for putting in and justifying bail shall be postponed accordingly, and all proceedings shall be stayed in the meantime.

Form of the notice of bail.

II. And it is further ordered, That every notice of bail shall, in addition to the descriptions of the bail, mention the street or place, and number (if any) where each of the bail resides, and all the streets or places, and numbers (if any) in which each of them has been resident at any time within the last six months, and whether he is a house-keeper or freeholder.

If an Affidavit of Justification accompany the Notice, the Costs of the Justification are to be paid by the Plaintiff, if the Bail justify; and the Costs of the Opposition by the Defendant, if the Bail are rejected.

III. And it is further ordered, That if the notice of bail shall be accompanied by an affidavit of each of the bail, according to the form hereto subjoined, and if the plaintiff afterwards except to such bail, he shall, if such bail are allowed, pay the costs of justification; and, if such bail are rejected, the defendants shall pay the costs of opposition, unless the court or a judge thereof shall otherwise order.

IV. And it is further enacted, That if the plaintiff shall not give one day's notice of exception to the bail by whom such affidavit shall have been made, the recognizance of such bail may be taken out of court without other justification than such affidavit.

If One Day's Notice of Exception not given, Bail complete.

V. And it is further ordered, That the bail of whom notice shall be given, shall not be changed without leave of the court or a judge.

Bail not to be changed without leave.

VI. And it is further ordered, That with every declaration, if delivered, or with the notice of declaration, if filed, containing counts in *indebitatus assumpsit*, or debt on simple contract, the plaintiff shall deliver full particulars of his demand under those counts, where such particulars can be comprised within three folios; and, where the same cannot be comprised within three folios, he shall deliver such a statement of the nature of his claim, and the amount of the sum or balance which he claims to be due, as may be comprised within that number of folios. And, to secure the delivery of particulars in all such cases, it is further ordered, that if any declaration or notice shall be delivered without such particulars, or such statement as aforesaid, and a judge shall afterwards order a delivery of particulars, the plaintiff shall not be allowed any costs in respect of any summons for the purpose of obtaining such order, or of the particulars he may afterwards deliver. And that a copy of the particulars of the demand, and also particulars (if any) of the defendant's set off, shall be annexed by the plaintiff's attorney to every record, at the time it is entered with the Judge's Marshal.

Particulars of Demand to be delivered with declaration in certain Cases.

Consequence of not delivering them.

Copy of particulars of Demand or Set-off, to be annexed to the Record.

VII. And it is further ordered, That upon every declaration delivered or filed on or before the last day of any term, the defendant, whether in or out of any prison, shall be compellable to plead as of such term, without being entitled to any imparlance.

No Imparlance where the Declaration is delivered on or before the last Day of Term.

VIII. And it is further ordered, That no judgment of *non pros* shall be signed for want of a declaration, replication, or other subsequent pleading, until four days next after a

There must be four Days' demand of Declaration,

&c: before  
non pros.

demand thereof shall have been made, in writing, upon the plaintiff, his attorney, or agent, as the case may be.

Only two  
Summonses  
before an  
Order.

IX. And it is further ordered, That hereafter it shall not be necessary to issue more than two summonses for attendance before a judge, upon the same matter ; and the party taking out such summonses shall be entitled to an order on the return of the second summons, unless cause is shown to the contrary.

No Declara-  
tion de bene  
esse till Six  
Days after  
the Arrest or  
Service of  
Process.

X. And it is further ordered, That no declaration *de bene esse* shall be delivered until the expiration of six days from the service of the process, in the case of process which is not bailable, or until the expiration of six days from the time of the arrest, in case of bailable process ; and such six days shall be reckoned inclusive of the day of such service or arrest.

Ejectments  
may be  
served before  
the first Day  
of full Term.

XI. And it is further ordered, That declarations in ejectment may be served before the first day of any term, and thereupon the plaintiff shall be entitled to judgment against the casual ejector, in like manner as upon declarations served before the essoign, or first general return-day.

Notice to  
Tax Costs:

XII. And it is further ordered, That before taxation of costs, one day's notice shall be given to the opposite party.

Rules to  
plead double  
to be obtain-  
ed on Sum-  
mons.

XIII. And it is further ordered, That no rule to show cause, or motion, shall be required, in order to obtain a rule to plead several matters, or to make several avowries or cognizances ; but that such rules shall be drawn up upon a judge's order, to be made upon a summons, accompanied by a short abstract or statement of the intended pleas, avowries, or cognizances. Provided, that no summons or order shall be necessary in the following cases, that is to say, where the plea of *non assumpsit*, or *nil debet*, or *non detinet*, with or without a plea of tender as to part, a plea of the statute of limitations, set-off, bankruptcy of the defendant, discharge under an insolvent act, *plene administravit*, *plene administravit præter*, infancy, and coverture, or any two or more of such pleas, shall be pleaded together ; but, in all such cases, a rule shall be drawn up by the proper officer, upon the production of the engrossment of the pleas, or a draft or copy thereof.

In certain  
Cases, no  
Summons  
necessary.

Commence-

XIV. And it is further ordered, That these rules shall

take effect on the first day of next *Michaelmas* term, except <sup>ment of these Rules.</sup> the rule as to the service of declarations in ejectment, which shall take effect from the 25th day of October next.

TENTERDEN,	J. VAUGHAN,
N. C. TINDAL,	J. PARKE,
LYNDHURST,	W. BOLLAND.
J. BAYLEY,	J. B. BOSANQUET,
J. A. PARK,	W. E. TAUNTON,
J. LITTLEDALE,	E. H. ALDERSON,
S. GASELEE,	J. PATTESON.

(*For the forms of affidavits of bail, see post.*)

PLEADING.

WHEREAS declarations in actions upon bills of exchange, promissory notes, and the counts usually called the common counts, occasion unnecessary expense to parties, by reason of their length, and the same may be drawn in a more concise form: now, for the prevention of such expense, it is ordered, that, if any declaration in *assumpsit*, hereafter filed or delivered, and to which the plaintiff shall not be entitled to a plea as of this term, being for any of the demands mentioned in the schedule of forms and directions annexed to this order, or demands of a like nature, shall exceed in length such of the said forms set forth or directed in the said schedule, as may be applicable to the case; or, if any declaration in debt to be so filed or delivered for similar causes of action, and for which the action of *assumpsit* would lie, shall exceed such length, no costs of the excess shall be allowed to the plaintiff if he succeeds in the cause; and such costs of the excess as have been incurred by the defendant shall be taxed and allowed to the defendant, and be deducted from the costs allowed to the plaintiff. And it is further ordered, That on the taxation of costs as between attorney and client, no costs shall be allowed to the attorney in respect of any such excess of length; and in case any costs shall be payable by the plaintiff to the defendant, on account of such excess, the

amount thereof shall be deducted from the amount of the attorney's bill.

*(Signed by the same judges as the last rule.)*

*(For the Forms of Declarations, see post.)*

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COURT OF EXCHEQUER CHAMBER.

*Michaelmas Term, 2 W. 4.*

It is ordered, That, henceforth, the costs of proceedings upon writs of error from the Court of Exchequer to this court, be taxed and allowed by the Master of the Court of Exchequer.

(Signed)

TENTERDEN,  
N. C. TINDAL,  
S. GASELEE,  
JAS. PARKE,  
J. B. BOSANQUET,  
W. E. TAUNTON,  
E. H. ALDERSON,  
J. PATTESON.

---

*Hilary Term, 2 W. 4.*

WHEREAS it is expedient that the practice of the Courts of King's Bench, Common Pleas, and Exchequer of Pleas, should, as far as possible, be rendered uniform :

It is ordered, That the practice to be observed in the said courts, with respect to the matters hereinafter mentioned, shall be as follows ; that is to say—

AUTHORITY TO PROSECUTE OR DEFEND.

Appoint-  
ments to sue  
and defend  
to be entered  
on issue roll.  
Special ad.

I. Warrants of attorney to prosecute or defend, shall not be entered on distinct rolls, but on the top of the issue roll.

II. A special admission of *prochein amy* or guardian, to

prosecute or defend for an infant, shall not be deemed an authority to prosecute or defend in any but the particular action or actions specified.

mission of prochein amy or Guardian, to apply to one case only.

**AFFIDAVIT.**

III. No affidavit of the service of process shall be deemed sufficient if made before the plaintiff's own attorney, or his clerk.

Affidavit of service of Process not to be sworn before Attorney or Clerk.

IV. An affidavit sworn before a judge of any of the Courts of King's Bench, Common Pleas, or Exchequer, shall be received in the court to which such judge belongs, though not intitled of that court; but not in any other court, unless intitled of the court in which it is to be used.

Affidavit, not intitled, if sworn before Judge, to be received in Court to which Judge belongs only.

V. The addition of every person making an affidavit shall be inserted therein.

Addition of deponent to be stated in affidavit.

VI. Where an agent in town or an attorney in the country is the attorney on the record, an affidavit sworn before the attorney in the country shall not be received; and an affidavit sworn before an attorney's clerk shall not be received in cases where it would not be receivable if sworn before the attorney himself; but this rule shall not extend to affidavits to hold to bail.

Affidavits not to be sworn before Agent or Attorney, or Clerk, except Affidavit of Debt.

**ARREST.**

VII. After *non pros.*, nonsuit, or discontinuance, the defendant shall not be arrested a second time without the order of a judge.

No second arrest after non pros., nonsuit or discontinuance without leave.

VIII. Affidavits to hold to bail for money paid to the use of the defendant, or for work and labour done, shall not be deemed sufficient unless they state the money to have been paid, or the work and labour to have been done, at the request of the defendant.

Affidavits for work and labour, and money paid, to state request of Defendant.

IX. No supplemental affidavit shall be allowed to supply any deficiency in the affidavit to hold to bail.

No supplemental Affidavits.

X. A variance between the *ac etiam* and the declaration, or the want of an *ac etiam*, where the defendant is arrested, shall not be deemed ground for discharging the defendant, or the bail; but the bail bond or recognizance of bail shall be taken with a penalty or sum of forty pounds only.

Variance between *ac etiam* and declaration, or want of *ac etiam*, not to relieve bail or discharge the defendant, but bail to stand for 40l.



WRIT, WHEN AND HOW TO BE FILED.

Sheriff, when ruled, to return writ in Vacation.

XI. When the rule to return a writ expires in vacation, the sheriff shall file the writ at the expiration of the rule, or as soon after as the office shall be open.

Officer to indorse hour when filed.

XII. And the officer with whom it is filed shall indorse the day and hour when it was filed.

BAIL.

Attorney and Clerk not to be bail to action, except to render.

XIII. If any person put in as bail to the action, except for the purpose of rendering only, be a practising attorney, or clerk to a practising attorney, the plaintiff may treat the bail as a nullity, and sue upon the bail bond as soon as the time for putting in bail has expired, unless good bail be duly put in in the meantime.

Country bail piece to be transmitted within eight days; if the Defendant lives more than 40 miles from London, in 15 days.

XIV. In the case of country bail, the bail piece shall be transmitted and filed within eight days, unless the defendant reside more than forty miles from London, and in that case, within fifteen days after the taking thereof.

Exception to bail, who are bail to Sheriff after assignment of Bond.

XV. When bail to the sheriff become bail to the action, the plaintiff may except to them, though he has taken an assignment of the bail bond.

Two days' notice of justification sufficient in all cases.

XVI. It shall be sufficient, in all cases, if notice of justification of bail be given two days before the time of justification.

Bail excepted to in vacation to justify in Term, unless required by Notice to justify at Chambers.

XVII. If bail, either to the action or in error, are excepted to in vacation, and the notice of exception require them to justify before a judge, the bail shall justify within four days from the time of such notice, otherwise on the first day of the ensuing term.

More than two Bail irregular, without leave.

XVIII. Notice of more bail than two shall be deemed irregular, unless by order of the court or a judge.

Affidavits of justification must state that Bail is worth the sum required after payment of debts and liability as bail in other actions.

XIX. Affidavits of justification shall be deemed insufficient, unless they state that each person justifying is worth the amount required by the practice of the courts, over and above what will pay his just debts, and over and above every other sum for which he is then bail.

- XX. Bail, though rejected, shall be allowed to render the principal without entering into a fresh recognizance. Bail rejected may render.
- XXI. Bail shall only be liable to the sum sworn to by the affidavit of debt, and the costs of suit; not exceeding in the whole the amount of their recognizance. Bail liable to sum sworn to, and costs not exceeding amount of recognizance.
- XXII. Bail shall be at liberty to render the principal at any time during the last day for rendering, so as they make such render before the prison doors are closed for the night. Render before prison doors close.
- XXIII. A plaintiff shall not be at liberty to proceed on the bail bond pending a rule to bring in the body of the defendant. No proceedings on bail bond pending body rule.
- XXIV. No bail bond taken in London or Middlesex shall be put in suit, until after the expiration of four days; nor, if taken elsewhere, till after the expiration of eight days exclusive from the appearance day of the process. No proceedings on bail bond till four days, if in London and Middlesex, or eight days if elsewhere, from appearance day of process.
- XXV. The time allowed for excepting to bail put in upon a *habeas corpus* shall be twenty days. Twenty days to except to bail on habeas corpus.
- XXVI. A recognizance of bail in error shall be taken in double the sum recovered, except in case of a penalty; and, in case of a penalty, in double the sum really due, and double the costs. Bail in Error, amount of recognizance.
- XXVII. In ejectment, the recognizance of bail in error shall be taken in double the yearly value, and double the costs. Bail in Ejectment, amount of recognizance.

BAIL BOND, AND ACTION THEREON.

- XXVIII. An action may be brought upon a bail bond by the sheriff himself in any court. Sheriff may sue on bail bond in any Court.
- XXIX. In all cases where the bail bond shall be directed to stand as a security, the plaintiff shall be at liberty to sign judgment upon it. Where Bail bond security, plaintiff may sign judgment on it.
- XXX. Proceedings on the bail bond may be stayed on payment of costs in one action, unless sufficient reason be shown for proceeding in more. Proceedings on Bail Bond stayed on payment of costs in one action.

APPEARANCE.

- XXXI. A defendant who has been served with process by original shall enter an appearance within four days of the

appearance day, if the action is brought in London or Middlesex, or within eight days of the appearance day in other cases, otherwise the plaintiff may enter an appearance for him according to the statute ; and any attorney who undertakes to appear shall enter an appearance accordingly.

#### IRREGULARITY IN PROCESS AND PROCEEDINGS.

Misnomer.

XXXII. Where the defendant is described in the process or affidavit to hold to bail by initials, or by a wrong name, or without a Christian name, the defendant shall not be discharged out of custody or the bail bond delivered up to be cancelled on motion for that purpose, if it shall appear to the court that due diligence has been used to obtain knowledge of the proper name.

Irregularity, when to be complained of.

XXXIII. No application to set aside process or proceedings for irregularity shall be allowed unless made within a reasonable time, nor if the party applying has taken a fresh step after knowledge of the irregularity.

Doublepleading without rule, a nullity.

XXXIV. If a party plead several pleas, avowries, or cognizances, without a rule for that purpose, the opposite party shall be at liberty to sign judgment.

#### DECLARATION, AND TIME FOR.

Plaintiff may declare within a Year.

XXXV. A plaintiff shall be deemed out of court unless he declare within one year after the process is returnable.

Declaring against Prisoner.

XXXVI. When the plaintiff declares against a prisoner, it shall not be necessary to make more than two copies of the declaration, of which one shall be served and another filed, with an affidavit of service ; upon the office copy of which affidavit, a rule to plead may be given.

Rule to Declare, on removal of Causes.

XXXVII. Where a cause has been removed from an inferior court, the rule to declare may be given within four days after the end of the term in which the writ is returned.

No Rule to declare in general ; time to declare in Exchequer.

XXXVIII. It shall not be necessary for a defendant in any case to give a rule to declare, except upon removals from inferior courts ; but the plaintiff may have a rule for time to

## *Rules of Court.*

lxvii

declare in the Court of Exchequer as well as in other courts.

XXXIX. A rule to declare peremptorily may be absolute in the first instance.

Rule peremptorily to Declare.

XL. A declaration laying the venue in a different county from that mentioned in the process shall not be deemed a waiver of the bail.

Declaration varying from process in Venue, not to discharge Bail.

XLI. It shall not be deemed necessary to express the amount of damages in a notice of declaration.

Amount of damages need not be expressed in Notice of Declaration.

XLII. Where an amendment of the declaration is allowed, no new rule to plead shall be deemed necessary, whether such amendment be made of the same term as the declaration, or of a different term.

No Rule to plead after amendment of Declaration.

### PLEA, AND TIME FOR.

XLIII. A demand of plea may be made at the time when the declaration is delivered, and may be indorsed thereon.

Plea may be demanded when Declaration is Delivered.

XLIV. If a defendant, after craving oyer of a deed, omit to insert it at the head of his plea, the plaintiff on making up the issue or demurrer book may, if he think fit, insert it for him; but the costs of such insertion shall be in the discretion of the taxing officer.

Insertion of instrument on Oyer.

XLV. If the declaration be filed or delivered so late that the defendant is not bound to plead until the next term, the defendant may plead as of the preceding term, within the first four days of the next term, any plea to the jurisdiction or in abatement, or a tender, or any other similar plea.

Pleading without im-  
parlance, in  
certain cases.

XLVI. The defendant shall not be at liberty to waive his plea without leave of the court or a judge.

No waiver of  
Plea without  
leave.

### PARTICULARS.

XLVII. A summons for particulars and order thereon may be obtained by a defendant before appearance, and may be made, if the judge think fit, without the production of any affidavit.

Particulars  
before ap-  
pearance, and  
without Aff-  
davit.

XLVIII. A defendant shall be allowed the same time

Pleading after  
particulars  
delivered.

for pleading after the delivery of particulars under a judge's order; which he had at the return of the summons; nevertheless, judgment shall not be signed till the afternoon of the day after the delivery of the particulars, unless otherwise ordered by the judge.

NOTICES AND RULES, AND SERVICE THEREOF.

**XLIX.** Where the residence of a defendant is unknown, notice of declaration may be stuck up in the office, but not without previous leave of the court.

**L.** Service of rules and orders, and notices, if made before nine at night, shall be deemed good; but not if made after that hour.

**LI.** It shall not be necessary to the regular service of a rule, that the original rule should be shown, unless sight thereof be demanded, except in cases of attachment.

**LII.** Where a term's notice of trial or inquiry is required, such notice may be given at any time before the first day of term.

**LIII.** A rule to reply may be given at any time when the office is open.

**LIV.** Service of a rule to reply or plead any subsequent pleading, shall be deemed a sufficient demand of a replication or such other subsequent pleading.

PAYMENT OF MONEY INTO COURT.

**LV.** In all cases in which money may be paid into court, leave to pay it in may be obtained by a side bar rule.

**LVI.** On payment of money into court, the defendant shall undertake by the rule to pay the costs; and, in case of non-payment, to suffer the plaintiff either to move for an attachment, on a proper demand and service of the rule, or to sign final judgment for nominal damages.

TRIAL AND NOTICE THEREOF.

**LVII.** Notice of trial and inquiry, and of continuance of inquiry, shall be given in town; but countermand of notice

Notice of declaration where Defendant's residence is unknown.

When Rules, Orders, and Notices must be served.

Original Rule need not be shown, except to found Attachment

Term's notice of trial, &c., may be given before first day of Term.

Rule to Reply may be given at any time when office open.

Rule to Reply, &c. a sufficient demand of replication, &c.

To pay money into Court is a side bar Rule.

On paying money into Court, the defendant must undertake to pay Costs.

Notice of trial and inquiry, where given.

of trial or inquiry may be given either in town or country, unless otherwise ordered by the court or a judge.

LVIII. The expression "Short Notice of Trial" shall, Short notice of trial is four days. in country causes, be taken to mean four days.

LIX. In all cases where the plaintiff in pleading concludes to the country, the plaintiff's attorney may give notice of trial at the time of delivering his replication, or Notice of trial, at what stage of proceedings given. other subsequent pleading; and in case issue shall afterwards be joined, such notice shall be available; but if issue be not joined on such replication, or other subsequent pleading, and the plaintiff shall sign judgment for want thereof, and forthwith give notice of executing a writ of inquiry, such notice shall operate from the time that notice of trial was given as aforesaid; and in all cases where the defendant demurs to the plaintiff's declaration, replication, or other subsequent pleading, the defendant's attorney, or the defendant, if he plead in person, shall be obliged to accept notice of executing a writ of inquiry on the back of the joinder in demurrer; and in case the defendant pleads a plea in bar or rejoinder, &c., to which the plaintiff demurs, the defendant's attorney, or the defendant, if he plead in person, shall be obliged to accept notice of executing a writ of inquiry on the back of such demurrer.

LX. Notice of a trial at bar shall be given to the proper officer of the court, before giving notice of trial to the party. Notice of trial at bar.

LXI. In country causes, or where the defendant resides more than forty miles from town, a countermand of notice of trial shall be given six days before the time mentioned in the notice for trial, unless short notice of trial has been given. Notice of countermand in country Causes.

LXII. In town causes, where the defendant lives within forty miles of town, two day's notice of countermand shall be deemed sufficient. Notice of countermand in town Causes.

LXIII. The rule for a view may in all cases be drawn up by the officer of the court, on the application of the party, without affidavit or motion for that purpose. View, how obtained.

NEW TRIAL, MOTION IN ARREST OF JUDGMENT, &c.

LXIV. If a new trial be granted without any mention of Costs of new Trial.

costs in the rule, the costs of the first trial shall not be allowed to the successful party, though he succeed on the second.

Arrest of  
Judgment,  
when moved.

LXV. No motion in arrest of judgment, or for judgment *non obstante veredicto*, shall be allowed after the expiration of four days from the time of trial, if there are so many days in term, nor in any case after the expiration of the term, provided the Jury process be returnable in the same term.

#### JUDGMENT, AND TIME FOR SIGNING.

Judgment  
when signed  
for want of a  
Plea.

LXVI. Judgment for want of a plea after demand, may, in all cases, be signed at the opening of the office in the afternoon of the day after that on which the demand was made, but not before.

Judgment,  
when signed  
after Inquiry  
or Verdict.

LXVII. After the return of a writ of inquiry, judgment may be signed at the expiration of four days from such return, and, after a verdict or nonsuit, on the day after the appearance day of the return of the *distringas* or *habeas corpora*, without any rule for judgment.

#### JUDGMENT AS IN CASE OF A NONSUIT.

No Notice  
before Judg-  
ment as in  
case of Non-  
suit.

LXVIII. A rule *nisi* for judgment as in case of a nonsuit may be obtained on motion without previous notice; but in that case it shall not operate as a stay of proceedings.

Judgment as  
in case of  
Nonsuit,  
when to be  
moved for.

LXIX. No motion for judgment as in case of a nonsuit shall be allowed after a motion for costs for not proceeding to trial for the same default, but such costs may be moved for separately, *i. e.* without moving at all for judgment as in case of a nonsuit, or after such motion is disposed of: or the court, on discharging a rule for judgment as in case of a nonsuit, may order the plaintiff to pay the costs of not proceeding to trial, but the payment of such costs shall not be made a condition of discharging the rule.

No Entry of  
Issue neces-  
sary before  
Judgment as  
in case of  
Nonsuit.

LXX. No entry of the issue shall be deemed necessary to entitle a defendant to move for judgment as in case of a nonsuit, or to take the cause down to trial by proviso.

No Trial by  
Proviso in  
the same  
Term as  
Default.

LXXI. No trial by proviso shall be allowed in the same term in which the default of the plaintiff has been made, and no rule for a trial by proviso shall be necessary.

WARRANT OF ATTORNEY AND COGNOVIT.

LXXII. No warrant of attorney to confess judgment, or *cognovit actionem*, given by any person in custody of a sheriff or other officer upon mesne process, shall be of any force, unless there be present some attorney on behalf of such person in custody expressly named by him, and attending at his request, to inform him of the nature and effect of such warrant or *cognovit* before the same is executed, which attorney shall subscribe his name as a witness to the due execution thereof, and declare himself to be attorney for the defendant, and state that he subscribes as such attorney.

Attorney to be present when Warrant of Attorney or Cognovit is executed by Prisoner.

LXXIII. Leave to enter up judgment on a warrant of attorney above one and under ten years old, must be obtained by a motion in term, or by order of a judge in vacation; and if ten years old or more, upon a rule to show cause.

Entering up Judgment on old Warrant of Attorney.

COSTS.

LXXIV. No costs shall be allowed on taxation to a plaintiff, upon any counts or issues upon which he has not succeeded; and the costs of all issues found for the defendant shall be deducted from the plaintiff's costs.

Costs of Counts and Issues against Plaintiff.

EXECUTION.

LXXV. It shall not be necessary that any writ of execution should be signed; but no such writ shall be sealed till the judgment paper, *postea*, or inquisition, has been seen by the proper officer.

Writs of Execution need not be signed—scaling.

LXXVI. A writ of *habere facias possessionem* may be sued out without lodging a *præcipe* with the officer of the Court.

Hab. fac. poss. without præcipe.

LXXVII. In actions commenced by a bill, a *ca. sa.* to fix bail shall have eight days between the *teste* and return; and in actions commenced by original, fifteen; and must, in London and Middlesex, be entered four clear days in the public book at the Sheriff's office.

Ca. sa. to fix Bail.



## SCIRE FACIAS.

Scire facias  
not to be  
quashed after  
appearance,  
without  
Costs.

Scire facias  
to revive  
Judgment,  
how ob-  
tained.

Scire facias  
on recogni-  
zance, where  
to be brought.

Judgment in  
sci. fa. for  
non-appear-  
ance.

Appearance  
sci. fa. by  
Bail.

LXXXVIII. A plaintiff shall not be allowed a rule to quash his own writ of *scire facias*, after a defendant has appeared, except on payment of costs.

LXXXIX. A *scire facias* to revive a judgment more than ten years old shall not be allowed without a motion for that purpose in term, or a judge's order in vacation ; nor, if more than fifteen, without a rule to show cause.

LXXX. A *scire facias* upon a recognizance taken in Serjeants' Inn, or before a commissioner in the country, and recorded at Westminster, shall be brought in Middlesex only ; and the form of the recognizance shall not express where it was taken.

LXXXI. No judgment shall be signed for non-appearance to a *scire facias* without leave of the court or a judge, unless the defendant has been summoned ; but such judgment may be signed by leave after eight days from the return of one *scire facias*.

LXXXII. A notice in writing to the plaintiff, his attorney, or agent, shall be a sufficient appearance by the bail or defendant on a *scire facias*.

## ERROR.

Writ of Error  
supersedes  
from allow-  
ance.

When Bail  
may stay pro-  
ceedings  
pending Writ  
of Error.

LXXXIII. A writ of error shall be deemed a *supersedeas* from the time of the allowance.

LXXXIV. To entitle bail to a stay of proceedings pending a writ of error, the application must be made before the time to surrender is out.

## SUPERSEDEAS.

Within what  
time pro-  
ceedings are  
to be taken  
against Pri-  
soner.

LXXXV. The plaintiff shall proceed to trial, or final judgment, against a prisoner within three Terms inclusive after declaration, and shall cause the defendant to be charged in execution within two Terms inclusive after such trial or judgment ; of which the term in or after which the trial was had shall be reckoned one.

List of su-

LXXXVI. The Marshal of the King's Bench Prison,

and the Warden of the Fleet, shall present to the Judges of the Courts of King's Bench, Common Pleas, and Exchequer, in their respective Chambers at Westminster, within the first four days of every term, a list of all such prisoners as are supersedeable; showing as to what actions and on what account they are so, and as to what actions (if any) they still remain not supersedeable.

persedeable  
Prisoners to  
be presented  
to Judges.

LXXXVII. If, by reason of any writ of error, special order of the court, agreement of parties, or other special matter, any person detained in the actual custody of the Marshal of the King's Bench Prison or Warden of the Fleet, be not entitled to a *supersedeas* or discharge to which such prisoner would, according to the general rules and practice of the court, be otherwise entitled, for want of declaring, proceeding to trial or judgment, or charging in execution, within the times prescribed by such general rules and practice, then, and in every such case, the plaintiff or plaintiffs at whose suit such prisoner shall be so detained in custody, shall, with all convenient speed, give notice in writing of such writ of error, special order, agreement, or other special matter, to the Marshal or Warden, upon pain of losing the right to detain such prisoner in custody by reason of such special matter; and the Marshal or Warden shall forthwith, after the receipt of such notice, cause the matter thereof to be entered in the books of the prison, and shall also present to the judges of the respective courts from time to time a list of the prisoners to whom such special matter shall relate, showing such special matter, together with the list of the prisoners supersedeable.

Cause of  
Detainer to  
be stated to  
Marshal or  
Warden, and  
to be entered.

LXXXVIII. All prisoners who have been or shall be in the custody of the Marshal or Warden for the space of one calendar month after they are supersedeable, although not superseded, shall be forthwith discharged out of the King's Bench or Fleet Prison as to all such actions in which they have been or shall be supersedeable.

Prisoners,  
one Month  
after they are  
supersede-  
able, to be  
discharged.

LXXXIX. The order of a judge for the discharge of a prisoner on the ground of a plaintiff's neglect to declare, or proceed to trial or final judgment or execution in due time,

Order to  
discharge  
supersede-  
able Prisoner.

may be obtained at the return of one summons served two days before it is returnable ; such order in town causes being absolute, and, in country causes, unless cause shall be shown within four days, or within such further time as the judge shall direct.

Order where  
Prisoner in  
Execution  
under 20l.

XC. A rule or order for the discharge of a debtor who has been detained in execution a year for a debt under 20l., may be made absolute in the first instance, on an affidavit of notice given ten days before the intended application, which notice may be given before the year expires.

#### ATTORNEY AND HIS BILL.

One sum-  
mons to Tax  
Attorney's  
Bill.

XCI. An order to deliver or tax an attorney's bill may be made at the return of one summons, the same having been served two days before it is returnable.

One appoint-  
ment to Tax  
costs.

XCII. One appointment only shall be deemed necessary for proceeding in the taxation of costs or of an attorney's bill.

No set-off in  
prejudice of  
Attorney's  
Lien.

XCIII. No set-off of damages or costs between parties shall be allowed to the prejudice of the attorney's lien for costs in the particular suit against which the set-off is sought ; provided, nevertheless, that interlocutory costs in the same suit, awarded to the adverse party, may be deducted.

#### MISCELLANEOUS.

Pluries ca-  
pias need not  
be stamped  
for exigent.

XCIV. It shall not be necessary that a *pluries capias* be stamped by the clerk of the warrants, to authorize the exigenter to make out an *exigent*.

Proceedings  
need not be  
entered on  
record, to  
charge defen-  
dant in exe-  
cution.

XCV. In order to charge a defendant in execution, it shall not be necessary that the proceedings be entered of record.

Side bar rules  
on last day  
of Term.

XCVI. Side bar rules may be obtained on the last as well as on other days in term.

Rules enlarg-  
ed without  
Notice.

XVII. A rule may be enlarged, if the court think fit, without notice.

Security for  
Costs must  
be moved for  
before Issue  
Joined.

XCVIII. An application to compel the plaintiff to give security for costs, must, in ordinary cases, be made before issue joined.

XCIX. Leave to compound a penal action shall not be given, in cases where part of the penalty goes to the crown, unless notice shall have been given to the proper officer ; but in other cases it may.

Compound-  
ing Penal  
Action.

C. Where the defendant, after having pleaded, is allowed to confess the action, he may withdraw his plea in person, without the appearance of the attorney or his clerk for that purpose before the officer of the court.

Plea may be  
withdrawn in  
Person.

CI. There shall be no rule for the sheriff to return a good jury upon a writ of inquiry, but an order shall be made by a judge upon summons for that purpose.

No Rule for  
good jury,  
but Order on  
Summons.

CII. An order upon the lord of a manor, to allow the usual limited inspection of the court rolls, on the application of a copyhold tenant, may be absolute in the first instance, upon an affidavit that the copyhold tenant has applied for and been refused inspection.

Inspection of  
Court Rolls.

CIII. In cases where the application for a rule to change the *venue* is made upon the usual affidavit only, the rule shall be absolute in the first instance ; and the *venue* shall not be brought back, except upon an undertaking of the plaintiff to give material evidence in the county in which the *venue* was originally laid.

Changing  
Venue.

CIV. Where money is paid into court in several actions, which are consolidated, and the plaintiff without taxing costs proceeds to trial on one and fails, he shall be entitled to costs on the others up to the time of paying money into court.

Paying mo-  
ney into  
Court, where  
Actions con-  
solidated.

CV. After judgment by default, the entry of any subsequent continuances shall not be required.

Entry of Con-  
tinuances af-  
ter Judgment  
by Default.  
Discontinu-  
ance after  
Plea.

CVI. To entitle a plaintiff to discontinue after plea pleaded, it shall not be necessary to obtain the defendant's consent, but the rule shall contain an undertaking on the part of the plaintiff to pay the costs, and a consent, that, if they are not paid within four days after taxation, defendant shall be at liberty to sign a *non pros*.

CVII. It shall not be necessary that any pleadings which conclude to the country be signed by counsel.

Plea to  
Country need  
not be signed.

CVIII. In all special pleadings, where the plaintiff takes issue on the defendant's pleading, or traverses the same, or

No Rule to  
Rejoin where  
no new mat-

demurs, so that the defendant is not let in to allege any new matter, the plaintiff may proceed without giving a rule to rejoin.

CIX. In shall not be necessary that *imparlances* should be entered on any distinct roll.

CX. Where a pauper omits to proceed to trial, pursuant to notice or an undertaking, he may be called upon by a rule to show cause why he should not pay costs, though he has not been dispaupered.

II. And it is further ordered, That, upon every bailable writ and warrant, and upon the copy of any process served for the payment of any debt, the amount of the debt shall be stated, and the amount of what the plaintiff's attorney claims for the costs of such writ or process, arrest, or copy and service and attendance to receive debt and costs ; and that upon payment thereof, within four days, to the plaintiff or his attorney, further proceedings will be stayed. But the defendant shall be at liberty, notwithstanding such payment, to have the costs taxed ; and, if more than one-sixth shall be disallowed, the plaintiff's attorney shall pay the costs of taxation.

The indorsement shall be written or printed in the following form :

“ The plaintiff claims \_\_\_\_\_ for debt,  
 “ and \_\_\_\_\_ for costs. And,  
 “ if the amount thereof be paid to the plaintiff  
 “ or his attorney within four days from the ser-  
 “ vice hereof, further proceedings will be stayed.”

III. And it is further ordered, That, in *Hilary* and *Trinity* Terms, a plaintiff in any country cause may file or deliver a declaration *de bene esse* within four days after the end of the term, as of such term.

IV. And it is further ordered, That the rules heretofore made in the Courts of King's Bench and Common Pleas respectively, for avoiding long and unnecessary repetitions of the original writ in certain actions therein mentioned, shall be extended and applied in the Courts of King's Bench, Com-

mon Pleas, and Exchequer of Pleas, to all personal and mixed actions; and that in none of such actions shall the original writ be repeated in the declaration, but only the nature of the action stated, in manner following: viz. A. B. was attached to answer C. D. in a plea of trespass, or in a plea of trespass and ejectment, or as the case may be, and any further statement shall not be allowed in costs.

V. And it is further ordered, That, upon staying proceedings, either upon an attachment against the sheriff for not bringing in the body, or upon the bail bond, on perfecting bail above, the attachment or bail bond shall stand as a security, if the plaintiff shall have declared *de bene esse*, and shall have been prevented, for want of special bail being perfected in due time, from entering his cause for trial, in a town cause, in the term next after that in which the writ is returnable, and in a country cause, at the ensuing assizes.

When Bail Bond, &c. is to stand as a Security.

VI. And it is further ordered, That the expense of a witness called only to prove the copy of any judgment, writ, or other public document, shall not be allowed in costs, unless the party calling him shall, within a reasonable time before the trial, have required the adverse party, by notice in writing, and production of such copy, to admit such copy, and unless such adverse party shall have refused or neglected to make such admission.

No Costs of proving Copy of Public Document, unless opposite Party required to admit it.

VII. And it is further ordered, That the expense of a witness called only to prove the hand-writing to, or the execution of, any written instrument stated upon the pleadings, shall not be allowed, unless the adverse party shall, upon summons before a judge, a reasonable time before the trial, (such summons stating therein the name, description, and place of abode of the intended witness), have neglected or refused to admit such hand-writing or execution, or unless the judge, upon attendance before him, shall indorse upon such summons, that he does not think it reasonable to require such admission.

No Costs of proving Hand-writing, without previous summons to admit it.

VIII. And it is further ordered, That, in all cases in which any particular number of days, not expressed to be clear days, is prescribed by the rules or practice of the courts,

Time, how computed.

the same shall be reckoned exclusively of the first day, and inclusively of the last day, unless the last day shall happen to fall on a Sunday, Christmay Day, Good Friday, or a day appointed for a public fast or thanksgiving, in which case the time shall be reckoned exclusively of that day also.

Commence-  
ment of  
Rules.

And it is further ordered, That the above rules shall take effect on the first day of next *Easter Term*.

TENTERDEN,  
N. C. TINDAL,  
LYNDHURST,  
J. BAYLEY,  
J. A. PARK,  
W. GARROW,  
J. LITTLEDALE,  
S. GASELEE,

J. VAUGHAN,  
J. PARKE,  
W. BOLLAND,  
J. B. BOSANQUET,  
W. E. TAUNTON,  
E. H. ALDERSON,  
J. PATTESON.

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*Easter Term, 2 W. 4.*

The Days be-  
fore and after  
Easter Day  
are not reck-  
oned in  
Rules, &c.

It is ordered, That the days between Thursday next before, and the Wednesday next after Easter Day, shall not be reckoned or included in any rules, or notices, or other proceedings, except notices of trial and notices of inquiry, in any of the courts of law at Westminster.

(Signed by all the Judges.)

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*Michaelmas Term, 3 W. 4, 1832.*

Writ to con-  
tain the  
Names of all  
the Defen-  
dants in the  
Action.

I. It is ordered, That every writ of summons, *capias*, and detainer, shall contain the names of all the defendants, if more than one, in the action, and shall not contain the name or names of any defendant or defendants in more actions than one.

Fees.

II. It is further ordered, That the following fees shall be taken—

For signing all writs for compelling an appearance, £ s. d.  
 whether of summons, *distringas*, *capias*, or de-  
 tainer, whether the same shall be the first writ,  
 or an *alias* or *pluries* writ, and whether the same  
 shall issue into the same county as the preceding  
 writ, or into a different county . . . . . 0 2 6

For sealing the same . . . . . 0 0 7

For entering an appearance for every defendant . 0 1 0

Unless an appearance shall be entered for more  
 than one defendant by the same attorney, and, in  
 that case, for every additional defendant . . . 0 0 4

III. It is further ordered, That the person serving a writ of summons shall, within three days, at least, after such service, indorse on such writ the day of the week and month of such service; otherwise, the plaintiff shall not be at liberty to enter an appearance for the defendant, according to the statute; and every affidavit upon which such an appearance shall be entered, shall mention the day on which such indorsement was made.

Day of Ser-  
 vice to be In-  
 dorsed on  
 Writ.

IV. It is further ordered, That the sheriff, or other officer or person to whom any writ of *capias* shall be directed, or who shall have the execution and return thereof, shall, within six days, at the latest, after the execution thereof, whether by service or arrest, indorse on such writ the true day of the execution thereof; and, in default thereof, shall be liable, in a summary way, to make such compensation for any damage which may result from his neglect, as the court or a judge shall direct.

Day of Exe-  
 cution to be  
 Indorsed on  
*capias*.

V. It is further ordered, That Rule II. of H. T. 1832, shall be applicable to all writs of summons, *distringas*, *capias*, and detainer, issued under the authority of the said act, and to the copy of every such writ.

Rule II. H. T.  
 1832, applica-  
 ble to new  
 Writs.

VI. It is further ordered, That any *alias* or *pluries* writ of summons, if the plaintiff shall think it desirable, be issued into another county, and any *alias* or *pluries* writ of *capias* may be directed to the sheriff of any other county; the plaintiff in such case, upon the *alias* or *pluries* writ of summons describing the defendant as late of the place of which he was

*Alias* and  
*pluries* Writs  
 may be di-  
 rected into  
 other coun-  
 ties.

Form of



Alias or plu-  
ries sum-  
mons.

described in the first writ of summons, and upon the *alias* or *pluries* writ of *capias* referring to the preceding writ or writs as directed to the sheriff, to whom they were in fact directed.

VII. It is further ordered, That the *alias* or *pluries* writ of summons, into another county, shall be in the following form :

*William the Fourth, &c.*

To C. D., of . . . ., in the county of . . . ., late of . . . .,  
in the county of . . . .

[*Original County.*] We command you, as before [*or often*] we have commanded you, &c. [*as in the writ of summons, No. 1, in the schedule of the said act.*]

And that the *alias* and *pluries* writ of *capias* shall be in the following form :

*William the Fourth, &c.*

To the sheriff of . . . .

Alias or plu-  
ries capias.

WE command you, as heretofore we have commanded the Sheriff of . . . ., that you omit not, &c. [*as in the writ of capias, No. 4, in the schedule of the said act.*]

Non omittas  
clause in dis-  
tringas with-  
out Fee.

VIII. It is further ordered, That in every writ of *dis-tringas* issued under the authority of the said act, a *non omittas* clause may be introduced by the plaintiff, without the payment of any additional fee on that account.

Name of At-  
torney in the  
Country to be  
indorsed on  
Writ as well  
as Name of  
Agent.

IX. It is further ordered, That when the attorney actually suing out any writ, shall sue out the same as agent for an attorney in the country, the name and place of abode of such attorney in the country shall also be indorsed upon the said writ.

Writ ir-  
regular but  
not void for  
want of In-  
dorsements.

X. It is further ordered, That if the plaintiff or his attorney, shall omit to insert in, or indorse on, any writ, or copy thereof, any of the matters required by the said act to be by him inserted therein, or indorsed thereon, such writ or copy thereof, shall not on that account be held void, but may be set aside as irregular, upon application to be made to the court out of which the same shall issue, or to any judge.

Declaring de  
bene esse  
where De-  
fendant not  
in actual

XI. It is further ordered, That upon all writs of *capias*, where the defendant shall not be in actual custody, the plaintiff, at the expiration of eight days after the execution of the

writ, inclusive of the day of such execution, shall be at liberty to declare *de bene esse* in case special bail shall not have been perfected. And if there be several defendants, and one, or more of them, shall have been served only, and not arrested, and the defendant or defendants so served shall not have entered a common appearance, the plaintiff shall be at liberty to enter a common appearance for him or them, and declare against him or them in chief, and *de bene esse* against the defendant or defendants who shall have been arrested, and shall not have perfected special bail.

custody on  
capias.

Where one  
Arrested and  
others Serv-  
ed.

XII. It is further ordered, That in case the time for pleading to any declaration, or for answering any pleadings, shall not have expired before the 10th day of August, in any year, the party called upon to plead, reply, &c. shall have the same number of days for that purpose, after the 24th day of October, as if the declaration or preceding pleading had been delivered or filed on the 24th of October; but in such cases it shall not be necessary to have a second rule to plead, reply, &c.

Where time  
to Plead, &c.  
expires after  
10th August,  
the same  
time is to be  
reckoned  
from 24th  
October, as if  
the Declara-  
tion, &c. had  
then been  
delivered.

No further  
Rule to  
Plead.

XIII. It is further ordered, That in case a judge shall have made an order, in the vacation, for the return of any writ issued by authority of the said act, or any writ of *ca., sa. fi. fa.,* or *elegit*, on any day in the vacation, and such order shall have been duly served, but obedience shall not have been paid thereto, and the same shall have been made a rule of court in the term then next following, it shall not be necessary to serve such rule of court, or to make any fresh demand of performance thereon, but an attachment shall issue forthwith for disobedience of such order, whether the thing required by such order shall or shall not have been done in the mean time.

If order to  
return Writ  
in Vacation  
be made a  
Rule of  
Court, next  
Term an At-  
tachment  
may issue  
without ser-  
vice of that  
Rule.

XIV. It is further ordered, That if any attorney shall, as required by the said act, declare that any writ of summons, or writ of *capias*, upon which his name is indorsed, was not issued by him, or with his authority, or privity, all proceedings upon the same shall be stayed until further notice.

Writs issued  
without Au-  
thority of At-  
torney whose  
Name is in-  
dorsed, to be  
stayed.

XV. It is further ordered, That every declaration shall, in future, be intituled in the proper court, and of the day of

Title of De-  
claration.

the month and year on which it is filed or delivered, and shall commence as follows:—(*for the forms, see post.*)

And that the entry of pledges to prosecute at the conclusion of the declaration shall, in future, be discontinued.

(*Signed by all the Judges.*)

It was also ordered, that writs of *capias* and *distringas* into the Counties Palatine of Lancaster or Durham, should be in the form set out in the rule. (*For the forms, see post.*)

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*Hilary Term, 3. Will. IV.*

SHERIFF.

It is ordered, That in case a rule of court, or judge's order for returning a bailable suit of *capias*, shall expire in vacation, and the sheriff or other officer having the return of such writ shall return *cepi corpus* thereon, a judge's order may thereupon issue requiring the sheriff or other officer within the like number of days after the service of such order, as by the practice of the court is prescribed with respect to rules to bring in the body issued in term, to bring the defendant into court, by forthwith putting in and perfecting bail above to the action. And if the sheriff or other officer shall not duly obey such order, and the same shall have been made a rule of court in the term next following, it shall not be necessary to serve such rule of court, or to make any such demand thereon, but an attachment shall issue forthwith for disobedience of such order, whether the bail shall or shall not have been put in and perfected in the mean time.

(*Signed by all the Judges.*)

## FORMS OF PROCEEDINGS.

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### *Affidavit for Admission of Attornies already Admitted in another Court.*

In the Exchequer of Pleas.

A. B. of ..... in the county of ..... gentle-<sup>(Stamp,  
2s 6d.)</sup> man, maketh oath and saith, that the stamp duty of ..... was paid on certain articles of clerkship, bearing date the .... day of .... 18.. and made between ..... of ..... in the county of ..... of the one part, and this deponent of the other part, and which said articles were executed on the .... day of .... and duly enrolled in the court of .... on the .... day of .... as appears by the certificate of the proper officer: And this deponent further saith, he was duly admitted an attorney of his Majesty's Court of King's Bench (or Common Pleas) at Westminster, on the .. day of ..... and still continues on the roll of the said court.

*Sworn* [&c.]

### *Where the Attorney has not been admitted of another Court.*

In the Exchequer of Pleas.

R. D. of ..... gentlemen, maketh oath and saith, that the duty of 120*l.* imposed on articles of clerkship, by an Act of Parliament made and passed in the 55th year of his late Majesty's reign, was paid on certain articles of clerkship, bearing date, &c. and made between D. B. of .... gentleman of the one part, and G. D. of .... and this deponent R. D., son of the said G. D. of the other part, as appears by the stamp affixed on the said articles. And this deponent further saith, that the said articles were duly executed by

the respective parties therein mentioned, on the day of the date thereof, and were duly registered on the .. day of .... then next following, as appears by the certificate of ..... indorsed thereon. E. D.

*If there has been an Assignment of the Articles, add to the above.*

(Stamp,  
2s. 6d.)

And this deponent E. D. further saith, that the duty of 1*l.* 15*s.* was paid on certain articles of assignment, bearing date the .. day of .... and made between A. K. of ..... gentleman, of the first part, G. D. of ..... and this deponent R. D. of the second part, and G. H. of ..... gentleman, of the third part, as appears by the stamp affixed on the said assignment. And this deponent further saith, that the said assignment was duly executed by the respective parties, thereto, on the .. day of .... (the date thereof) and was duly registered on the .... of ... then next, as appears by the certificate of ..... indorsed thereon.

*Sworn* [&c.]

G. D.

*Form of Articles of Clerkship.*

ARTICLES OF AGREEMENT indented, had, made, concluded and agreed upon, the .. day of ...., between A. B. of ..... gentleman, one of the attornies of his Majesty's Courts of King's Bench, Common Pleas, and Exchequer (*or as the case may be*) at Westminster, and a solicitor in the High Court of Chancery of the one part, and C. D. of ..... and E. D. son of the said C. D. of the other part: Witness, that the said E. D. of his own free will, and by and with the consent and approbation of the said C. D. his father, hath put, placed and bound himself, and by these presents doth put, place and bind himself, clerk to the said A. B. to serve him from the day of the date hereof, for and during, and until the full end and term of five years from hence next ensuing and fully to be complete and ended: And the said C. D. doth for himself, his heirs, executors and administrators, covenant, promise, and agree to and with the said A. B., his executors and ad-

ministrators and assigns, by these presents, in manner following (that is to say), that the said E. D. shall and will, well and faithfully serve the said A. B. as his clerk, in the profession of an attorney at law and solicitor in Chancery, from the day of the date hereof, for and during, and until the end of the said term of five years: And that he the said E. F. shall not, at any time during the said term of five years, cancel, obliterate, spoil, destroy, waste, embezzle, spend, or make away with, any of the books, papers, writings, monies, stamps, or other property of the said A. B., his executors, administrators, or assigns, or any of his clients or employers, which shall be deposited in his hands, or entrusted to his custody or possession, or to the care, custody or possession of him the said E. F., and that in case he the said E. F. shall act contrary to the last-mentioned covenant, or if he the said A. B., his executors, administrators, or assigns, shall sustain or suffer any loss, damage, or prejudice, by the misbehaviour, misconduct, or neglect of the said E. F., he the said C. D., his executors, or administrators, shall make good and reimburse him the said A. B. the amount or value thereof: And further, that he the said E. F. shall and will, from time to time, and at all times during the said term of five years, keep the secrets of the said A. B. and readily and cheerfully obey and execute his lawful and reasonable commands and directions; and shall not at any time during the said term, depart or absent himself from the service or employ of the said A. B. without the consent of the said A. B. first had and obtained; but shall from time to time, and at all times during the said term, conduct himself with all due diligence, honesty, sobriety, and temperance: And that he the said C. D., his executors, and administrators, shall and will, from time to time, and at all times during the said term of five years, at his and their proper costs, find and provide the said E. F. with (*board and lodging and*) all manner of necessary and becoming wearing apparel and washing, and also medicine, surgery, and medical advice in case of sickness: And the said E. F. doth hereby, for himself and on his part and behalf, consent and agree to and with the said A. B., his executors,

administrators, and assigns, that he the said E. F. shall and will, at all times during the said term, well, truly, and honestly serve him the said A. B. as a faithful clerk ought to do, in all things whatsoever, in the manner above specified. In consideration whereof, and of the sum of . . . l. of lawful money of Great Britain, by the said C. D. to the said A. B. in hand well and truly paid, at or before the sealing and delivery of these presents (the receipt whereof he the said A. B. doth hereby acknowledge, and of and from the same, and every part thereof, doth for ever acquit, release, and discharge, the said C. D., his executors and administrators, and every of them, by these presents), he the said A. B. for himself, his heirs, executors, and administrators, doth covenant, promise, and agree to and with the said C. D., his executors and administrators, by these presents, in manner following (that is to say), that he the said A. B. shall and will accept and take the said E. F. as his clerk (*and shall and will find and provide him during the said term, with proper board and lodging*): And also, that he the said A. B. shall and will, by the best ways and means he may or can, and to the utmost of his skill and knowledge, teach and instruct, or cause to be taught and instructed, the said E. F. in the said practice or profession of an attorney at law and solicitor in Chancery, which he the said A. B. now doth, or shall at any time during the said term, use or practise: and also, shall and will, at the expiration of the said term, use his best means and endeavours, at the request, costs, and charges of the said C. D. and E. F. or either of them, to cause and procure him the said E. F. to be admitted and sworn an attorney of his Majesty's said Courts of King's Bench, Common Pleas, and Exchequer, or either of them, or any other of his said Majesty's courts of law or equity, provided he the said E. F. shall, well, and faithfully serve his said intended clerkship. In witness, [&c.]

*Affidavit of Execution of Articles.*

In the Exchequer of Pleas.

A. B. of . . . . . gentleman, maketh oath and saith, that by articles of agreement, bearing date the . . . . day of . . . . last past, and made between D. B. of . . . . . gentleman, one of the attornies of his Majesty's Courts of King's Bench and Common Pleas (*and Exchequer*), at Westminster, of the one part, and G. D. of . . . . and R. D. of . . . . son of the said W. S., of the other part, the said R. D. for the considerations therein mentioned did put, place, and bind himself clerk to the said D. B. to serve him in the profession of an attorney at law, from the day of the date of the said articles, for the term of five years thence next ensuing and fully to be complete and ended; and which said articles were in due form of law executed by the said D. B., G. D., and R. D., in the presence of this deponent and of one O. P. of . . . . and that the names A. B. and O. P., set and subscribed to the said articles as witnesses to the due execution thereof, are the proper hand-writing of this deponent and of the said O. P.

*Sworn* [&c.]

A. B.

*Notice of Admission.*

Notice is hereby given, that R. D. of . . . . . now (*or lately*) under articles of clerkship to D. B. of . . . . . attorney at law, intends to apply next . . . . term, to be admitted an attorney of his Majesty's Court of Exchequer of Pleas. Dated this . . . . day of . . . ., 18. .

R. D.

*Notice of Re-admission.*

Notice is hereby given, that L. M. late of . . . . . but now of . . . . . gentleman, intends to apply on the . . . . day of . . . . next (being the last day of . . . . term next) to be re-admitted an attorney of his Majesty's Court of Exchequer of Pleas.



*Affidavit of Service of Clerkship.*

In the Exchequer of Pleas.

R. D. of . . . . . gentleman, maketh oath and saith, that he hath really and truly served and been employed by D. B. of . . . . . gentleman, as his clerk, in the practice of an attorney and solicitor, from the . . . . day of . . . . in the year 18. . . , being the day of the date of certain articles of clerkship, made between the said D. B. of the one part, and G. D. and the said R. D., son of the said G. D., of the other part, for the full term of five years, pursuant to the articles hereunto annexed.

*Sworn* [&c.]

R. D.

*Affidavit of Service of Clerkship and Notice of Admission.*

In the Exchequer of Pleas.

R. D. of . . . . . gentleman, maketh oath and saith, that he hath actually served and been employed by D. B. of . . . . gentleman, as his clerk, in the practice of an attorney, during the whole of the term of five years, pursuant to the articles hereunto annexed: And this deponent further saith, that he did cause his name and place of abode, and the name and place of abode of the said D. B. to whom this deponent was articulated as aforesaid, written in legible characters, to be affixed in the Court of Exchequer, Westminster Hall, in the place where such notices are usually affixed, and also in the Exchequer Office of Pleas, Lincoln's Inn, during the whole of the last . . . . term (*the term preceding that in which the clerk is to be admitted*); and that he, this deponent, did also on the . . . . day of . . . . last (being one full term before the term of admission) cause his name and place of abode, and the name and place of abode of the said D. B. to be entered in the book kept for that purpose at the chambers of each of the barons of the said Court of Exchequer.

*Sworn* [&c.]

R. D.

*Affidavit of Service of Clerkship when there has been an  
Assignment of Articles.*

In the Exchequer of Pleas.

L. M. of . . . . maketh oath and saith, that he did really and truly serve, and was employed by S. T. of . . . . . gentleman, as his clerk, in the practice of an attorney and solicitor, from the day of the date of certain articles of clerkship, made between the said S. T. and C. D. and the said L. M., bearing date the . . . . day of . . . . in the year . . . . until the . . . . day of . . . . in the year . . . . being the full term of . . . . years: And this deponent further saith, that he was duly assigned, for the remainder of the term of five years, unto G. K. of . . . . . and that he hath really and truly served and been employed by the said G. K. as his clerk, in the practice of an attorney and solicitor, from the day of the date of certain articles of assignment, made between the said S. T., C. D., L. M., and G. K., bearing date the . . . . day of . . . . in the year . . . . until the . . . . day of . . . . in the year . . . . being the full term of . . . . years, pursuant to the said articles of assignment hereunto annexed: And this deponent L. M. further saith, that he hath really and truly served and been employed as clerk, for the full term of five years, pursuant to the said articles of clerkship, and assignment above-mentioned.

Sworn [&c.]

L. M.

*Affidavit of affixing Notice.*

In the Exchequer of Pleas.

K. S. of . . . . . maketh oath and saith, that he did, previous to last . . . . term, affix the name and place of abode of R. D. of . . . . as well as the name and place of abode of D. B. of . . . . in the Exchequer Office of Pleas, Lincoln's Inn, and in the Court of Exchequer at Westminster Hall, in such place as public notices are usually affixed in that behalf: and that such notice remained there the whole of that term, and was not pulled down or defaced, according to the best of

the knowledge or belief of this deponent: and that he did also, previous to the same term, enter the name and place of abode of the said R. D., as well as the name and place of abode of the said D. B., in the books kept for that purpose, at the chambers of each of the Barons of his Majesty's Court of King's Bench; and that such notice and entry in the books above-mentioned, purported that it was the intention of the said R. D. to apply the then next . . . . term, to be admitted an attorney of this honourable court.

*Sworn* [&c.]

K. S.

*Admission Form of Attornies.*

In the Exchequer of Pleas.

. . . . Term in the . . . . year of the reign of King William the Fourth.

It appearing unto this court, that M. S. of . . . . gentleman, is duly qualified to act as an attorney of his Majesty's Court of Exchequer of Pleas at Westminster, and he having this day taken, in open court, the oaths of allegiance and supremacy, and also taken and subscribed the oath appointed to be taken by attornies, by an Act of Parliament made and passed in the second year of the reign of his late Majesty King George the Second, intituled, "An Act for the better Regulation of Attornies and Solicitors;" this court doth hereby admit him an attorney of the said Court of Exchequer, and doth order his name to be enrolled by the proper officer of the said court, pursuant to the directions of the said act. Dated this . . . . day of . . . . in the year of our Lord one thousand eight hundred and thirty . . . .

*Enrolled the same day* }  
T. D. }  
[*one of the Masters.*] }

*By the Barons.*  
Rose.

*Form of Admission of a Roman Catholic.*

It appearing unto this court that A. B. of . . . . . gentleman, is duly qualified to act as an attorney of his Majesty's Court of Exchequer of Pleas, at Westminster; and he

having this day taken, in open court, the oaths appointed to be taken, instead of the oaths of allegiance and supremacy; and also taken and subscribed the oath appointed to be taken by attornies, by an act of Parliament made and passed in the second year of the reign of his late Majesty King George the Second, intituled, "An Act for the better Regulation of Attornies and Solicitors;" this court doth hereby admit him an attorney of his Majesty's said Court of Exchequer, and order his admission to be enrolled by the proper officer of the said court, pursuant to the directions of the said Act. Dated this . . . . . day of . . . . . 18. . .

*Enrolled the same day* }  
 E. W. }  
 [one of the Masters.] }

*By the Barons.*  
 Rose.

*Affidavit for an Attorney to be struck off the Roll.*

In the Exchequer of Pleas.

J. B. of . . . . . gentleman, one of the attornies of this honourable court, maketh oath and saith, that he was duly admitted an attorney of this honourable court, in . . . . . and that he is now desirous to have his name struck off the Roll of Attornies of this court, for the purpose of [*stating the reason*] and this deponent further saith, that no application or other proceeding against him is now pending in this honourable court, as an attorney, thereof; nor doth he expect or apprehend, nor hath he any reason to expect or apprehend, that any such application or proceeding will be made, against him, as such attorney as aforesaid. T. B.

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FORMS OF DIFFERENT AFFIDAVITS OF DEBT.

*Copyholds surrendered.*

In the Exchequer of Pleas.

A. B. of . . . . . maketh oath and saith, that C. D. is justly indebted to this deponent, in the sum of . . . l., for certain messuages, lands, and tenements, with the appurte-

nances (*describing them*), by him, this deponent, bargained, sold, and surrendered to the said C. D., and at his request.

*Fines on Admission.*

For certain reasonable fines duly assessed, due and payable from the said C. D. to this deponent, as lord of the manor of . . . . . on the admission of the said C. D. into certain customary tenements, parcel of the said manor.

*Freehold Premises bargained and sold.*

For a certain messuage, or tenement, and premises, with the appurtenances, of this deponent, by him bargained, sold, and released to the said C. D., at his request.

*Tithes.*

Upon and by virtue of a certain composition for certain tithes of this deponent, issuing and arising from and out of certain lands in the occupation of the said C. D., and by the said C. D. retained to his own use.

*Warehouse-room.*

For warehouse-room, found and provided by this deponent, for, in, and about the stowing and keeping of certain goods and merchandize stowed and kept in a certain warehouse of this deponent, for the said P. S. and at his request.

*Rent.*

For the rent [*or*, use and occupation] of a certain house, [*or*, of a certain house and certain lands] with the appurtenances, held and enjoyed by the said C. D. as tenant thereof, to this deponent, for . . . . . now elapsed, and which said rent is still in arrear and unpaid.

*Rent on a Lease.*

For the arrears of a certain yearly rent of . . . *l.*, due and

payable to this deponent, by the said R. S. upon and by virtue of a certain indenture of lease, dated [&c.] and made between this deponent, of one part, and the said R. S. of the other part.

*Use and Occupation.*

For the use and occupation of a certain dwelling-house, with the appurtenances of this deponent, held, occupied, used, and enjoyed by the said C. D. as the tenant thereof, to this deponent, for . . . . now elapsed, and which said sum still remains due and unpaid to this deponent.

*Use and Occupation of Lodgings.*

For the use and occupation of certain rooms and apartments in a certain dwelling-house of this deponent, situate at . . . . . held and enjoyed by the said K. M. as tenant thereof to the deponent for . . . . years (or months, &c.) now elapsed, and which said sum of . . . . l. remains due and unpaid to this deponent.

*Goods sold and delivered.*

For goods [*or, cattle, &c.*], sold and delivered by this deponent to the said C. D., and at his request.

*Goods sold to Defendant, and delivered to a third Person.*

For goods bargained and sold by this deponent to the said C. D., and, by virtue of that bargain and sale, delivered to one E. F., by the direction of the said C. D.

*Leasehold Premises assigned.*

For a certain messuage, or tenement, and premises, with the appurtenances, of this deponent, by him bargained, sold, and assigned to the said C. D., and at his request, for the remainder of a certain term of years therein unexpired.

*Board and Lodging.*

For meat, drink, washing, lodging, and other necessities,

found and provided by this deponent, to and for the use of the said C. D., and at his request.

*Medicines, &c.*

For divers medicines, and other necessary things, found and provided, administered, delivered, and applied by this deponent, as an apothecary, for the said C. D., and at his request; or for "L. S. the infant son," or "daughter," or "wife," (*as the case may be*) of the said C. D., and upon his request.

*Hire of Horses, Carriages, &c.*

For the hire and use of a certain horse, [*or, divers horses*] and of a certain carriage, [*or, divers carriages*] let to hire, and delivered by this deponent to the said C. D., and at his request.

*Horse-meat, &c.*

For horse-meat, stabling, care and attendance, found, provided, and bestowed by this deponent, for, in, and about the feeding and keeping of a certain horse, mare, or gelding, for the said C. D., and at his request.

*Agistment of Cattle.*

For the agisting, depasturing, and keeping of divers cattle, by this deponent, for the said C. D., and at his request.

*Freight, &c.*

For freight, primage, and average, due and payable from the said C. D. to this deponent, in respect of the carriage of certain goods and merchandize carried and conveyed by this deponent, in and on board of a certain vessel, from . . . . . to . . . . . for the said C. D., and at his request.

*For Carriage and Conveyance.*

For the carriage and conveyance of certain goods and merchandize by this deponent, in certain waggons and other carriages for the said J. J., and at his request.

*Demurrage.*

For the use of a certain vessel of this deponent, detained and kept by the said C. D., on demurrage, for a long space of time now elapsed, at the request of the said C. D.

*Lighterage.*

For the lighterage of certain goods, carried and conveyed in certain lighters and other vessels, by this deponent, for the said C. D., and at his request.

*Work by Plaintiff, his Servants, Horses, &c.*

For work and labour done and performed by this deponent and his servants, and with his horses, carts, and carriages, for the said C. D., and at his request.

*Fixtures.*

For fixtures of and in a certain dwelling-house and premises, sold and delivered by this deponent to the said K. M., and at his request.

*Work and Labour as a Schoolmaster.*

For the work and labour, care, diligence, and attendance of this deponent, by him done, performed, and bestowed, as a schoolmaster, in and about teaching and instructing E. F., the infant son of the said C. D., in reading, writing, and other necessary and useful qualifications, at the request of the said C. D., and for divers books and other necessary things found and provided, used and applied, in and about the said work and labour, by this deponent, for the said C. D., and at his request ; and also for meat, drink, washing, lodging, and other necessaries, found and provided for the said E. F., by this deponent, and at the request of the said C. D. ; and for money paid, laid out and expended, lent and advanced, by this deponent, to and for the said C. D., and at his like request.



*Work and Materials.*

For work and labour done and performed, and materials found and provided, used and applied, by this deponent, for the said C. D., and at his request.

*Servants' Wages.*

For wages due from the said C. D. and payable to this deponent, for the service of this deponent, done and performed, as the hired servant of the said C. D., and on his retainer and request.

*Sale of Horse, Gelding, or Mare.*

For a "horse," ["gelding," or "mare,]" sold and delivered, by this deponent to the said L. S., and at his request.

*Salary.*

For salary due, and payable from the said T. X. to this deponent for the service of this deponent done and performed for the said T. X. as a clerk to the said T. X. on his retainer.

*Work as a Surveyor.*

For work and labour done and performed by this deponent as a surveyor, in drawing plans, elevations, and sections of buildings, and in surveying and superintending the erection thereof; and in and about the admeasurement and valuation of certain works, for the said C. D., and in and about other the business of the said C. D. and at his request.

*Work as a Surgeon and Apothecary.*

For work and labour, care, diligence, and attendance, done, performed, and bestowed, by this deponent, as a surgeon and apothecary, for the said C. D., in and about the healing and curing of the said C. D. (and divers other persons) of divers diseases and maladies; and for divers medicines, and other

necessary things, found and provided, administered, delivered, used, and applied, by this deponent, for the said C. D., and at his request.

*Work as an Attorney and Solicitor.*

For the work and labour, care, diligence, and attendance, done, performed, and bestowed, by this deponent, as the attorney and solicitor of and for the said C. D., in and about the prosecuting, defending, and soliciting of divers causes, suits and businesses, for the said C. D. ; upon his retainer, and at his request, and for certain fees due and payable to this deponent, in respect thereof ; and for other work and labour, care, diligence, and attendance, done, performed, and bestowed by this deponent, in and about the drawing, copying, and engrossing of divers deeds and writings for the said C. D. ; and in and about other the business of the said C. D., and at his request.

*Money lent, &c.*

For money lent and advanced by this deponent to the said C. D. ; and for other money paid, laid out, and expended, by this deponent, for the said C. D., at his request ; and for money had and received, [*as the case may be*] by the said C. D., to and for the use of this deponent.

*Interest.*

For money due and payable from the said C. D. to this deponent, for interest, upon and for the forbearance of divers sums of money, due and owing from the said C. D. to this deponent ; and by this deponent forborne, for divers long spaces of time now elapsed, at the instance and request of the said C. D.

*Account stated.*

For so much money due and owing from the said C. D. to this deponent, upon the balance of an account stated between this deponent and the said C. D.

*Award.*

Upon and by virtue of a certain bond bearing date the . . . . and made and entered into by the said G. H. to this deponent, in the penal sum of . . . . conditioned for the performance of an award, to be made in pursuance of the condition mentioned in the said bond ; and by which said award, since made in pursuance of the said condition, bearing date the . . . . . the said G. H. was awarded to pay to this deponent, the said sum of . . . . upon a day now past, but which has not been so paid, and the same still remains due and unpaid to this deponent.

*Insurance Broker.*

For work and labour, care, diligence, and attendance by this deponent, done, performed, and bestowed, by him, as an insurance broker, in and about the writing, drawing, and making out certain policies of insurance of divers ships and vessels, goods, wares, and merchandize, and in and about the causing and procuring of divers persons to insure certain sums of money on the said ships and vessels, goods, wares and merchandize, for the said M. P. and at his request.

*Premiums of Insurance.*

For certain premiums of insurance due and payable to this deponent, from the said K. G. for and in respect of this deponent having underwritten divers policies of insurance, for and on account of the said K. G., for the insurance of divers sums of money upon divers ships and vessels, goods, wares, and merchandize for the said K. G. and at his request

*By Assignees, for Goods sold.*

A. B., of . . . . . maketh oath and saith, that C. D. is justly and truly indebted to this deponent, and to G. H., as assignees of the estate and effects of E. F., a bankrupt, in the sum of . . . . .*l.*, for goods sold and delivered by the said E. F., before he became bankrupt, to the said C. D. ; as ap-

appears by the books of account of the said E. F., in the possession of this deponent and the said G. H., and as this deponent verily believes.

*By Husband and Wife, for a Debt before Marriage.*

A., the wife of A. B., maketh oath, that C. D. was before and at the time of the intermarriage of this deponent, with the said A. B. justly indebted to this deponent, and still is justly indebted to the said A. B., and this deponent his said wife, in the sum of .....*l.* for [*&c.*]

*Against Husband and Wife, for the Wife's Debt before Marriage.*

A. B. of ..... maketh oath and saith, that C. D. and F. his wife, are justly [*&c.*] for money lent and advanced by this deponent to the said F. before her intermarriage with the said C. D.

*By a Partner.*

To this deponent and L. M., his partner in trade, in the sum of .....*l.*, for goods sold and delivered by this deponent and the said L. M. to the said A. K., and at his request.

*By a surviving Partner, for Goods sold.*

For goods sold and delivered to the said C. D. by this deponent, and E. F., this deponent's late partner, since deceased, and whom this deponent hath survived, at the request of the said C. D.

*By an Executor.*

A. B., of ..... executor of the last will and testament of E. F., deceased, maketh oath and saith, that C. D. is justly and truly indebted to this deponent, as executor as aforesaid, in the sum of ..... *l.*, for goods sold and delivered by the said E. F. in his life-time to the said C. D., and at his request, as appears by the books of the said E. F., and as this deponent verily believes.

*Appendix.**By an Administrator.*

F. G. &c., administrator of all and singular the goods and chattels, rights and credits, which were of J. K. deceased, at the time of his death, who died intestate, &c.

*On a Promissory Note, Payee against Maker.*

On a promissory note, made and drawn by the said C. D., for the sum of . . . . l., and payable to this deponent on demand, [*or, at a certain day now past*], and remaining due and unpaid.

*Indorsee against Maker.*

As indorsee of a promissory note, made by the said C. D., for the sum of . . . . l. and payable to E. F. or order, on demand, [*or, at a certain day now past*] and by the said E. F. duly indorsed to this deponent, and which said promissory note still remains due and unpaid.

*Indorsee against Indorser.*

As indorsee of a promissory note, made by one E. F. for the sum of . . . . , made payable to one C. D., and indorsed by the said C. D. to this deponent, and payable at a certain day now past, and which said promissory note still remains due and unpaid.

*On a Bill of Exchange, Payee against Acceptor.*

On a certain bill of exchange, drawn by one E. F. for the sum of . . . . l., upon and accepted by the said C. D., payable to this deponent at a certain day now past; and which said bill of exchange still remains due and unpaid.

*Payee against Drawer.*

On a certain bill of exchange, drawn by the said C. D. for . . . . l. upon, and accepted by one E. F., and payable to this deponent at a certain day now past; and which said bill of

exchange was duly presented for payment to the said E. F.; but payment thereof was then and there refused, and the same still remains due and unpaid.

*Indorsee against Acceptor.*

As indorsee of a certain bill of exchange, drawn by one E. F., upon and accepted by the said C. D. for the sum of . . . l., payable to the said E. F., or his order, at a certain day now past, and by him the said E. F. duly indorsed to this deponent; and which said bill of exchange still remains due and unpaid.

*Indorsee against Drawer.*

As Indorsee of a certain bill of exchange drawn by the said C. D. on, and accepted by one E. F., for the sum of . . . l., payable to the order of the said C. D., at a certain day now past, and by him duly indorsed to this deponent; and which said bill of exchange was duly presented for payment to the said E. F.; but payment thereof was then and there refused, and the same still remains due and unpaid.

*The like, where Acceptance has been refused.*

As indorsee of a certain bill of exchange, drawn by the said C. D. upon one E. F. for the sum of . . . l., payable to the order of the said C. D., at a certain day now past, and by him the said C. D. duly indorsed to this deponent; which said bill the said E. F. refused to accept; and the same still remains due and unpaid.

*Indorsee against Indorser.*

As indorsee of a certain bill of exchange, drawn by one F. F. upon, and accepted by one N. N., and payable to the order of one P. P., and indorsed by the said P. P. to this deponent; and which said bill of exchange was made payable at a day now past, and was duly presented for payment to the said N. N. for payment; but payment thereof was then and there refused, and the same still remains due and unpaid.

*On a Covenant for Payment of Money, &c.*

Upon and by virtue of a certain indenture, made between the said C. D. of the first part, E. F. of the second part, and this deponent of the third part; whereby the said C. D. covenanted to pay to this deponent the sum of . . . .*l.*, and interest for the same, and certain costs and charges, amounting in the whole to the said sum of . . . .*l.*, at a certain day now past.

*On Articles of Agreement.*

For principal and interest due to this deponent upon and by virtue of certain articles of agreement, made between, [&c.] and bearing date . . . . whereby the said C. D. [&c.] agreed to pay to this deponent the sum of . . . .*l.*, together with lawful interest for the same, at a certain day now past.

*For the Arrears of an Annuity.*

For the arrears of a certain annuity, or yearly sum of . . . .*l.*, granted by the said C. D. to this deponent, in and by a certain indenture of three parts, made between the said C. D. of the first part, this deponent of the second part, and E. F. of the third part, and bearing date the [&c.] for and during the natural lives of G. H. and I. K., and the natural life of the survivor of them; which said G. H. and I. K. are now respectively living.

*For Mortgage Money and Interest.*

For principal and interest due and owing from the said P. S. to this deponent upon and by virtue of a certain indenture of mortgage, bearing date, [&c.], and made between the said O. P. of the one part, and this deponent of the other part, whereby the said O. P. covenanted to pay to this deponent the sum of . . . .*l.*, together with interest upon the same to this deponent at a day now past, and which still remains due and unpaid to this deponent.

*For Freight, &c. on a Charter Party.*

Upon and by virtue of a certain charter party of affreightment, bearing date the [&c.] for and on account of the freight and hire of a certain ship or vessel let to hire by this deponent to the said C. D., and by him taken and used, for and during a certain voyage from . . . . to . . . ., and from thence to . . . .

*On a Judgment.*

Upon and by virtue of a judgment of this honourable court, for the said sum of . . . . *l.* recovered against the said C. D. by this deponent in . . . . term last past, for his damages, costs, and charges, (or whereby this deponent recovered against the said C. D. his debt amounting to . . . . as also . . . . for his damages, costs, and charges).

*Affidavit made in England to Arrest in Ireland.*

In the Exchequer of Pleas.

A. B. of [&c.], in that part of the United Kingdom of Great Britain and Ireland called England, maketh oath and saith, that C. D. is justly and truly indebted unto this deponent in the sum of . . . . *l.* for [&c.]

*In Trover.*

For that the said C. D. hath possessed himself of divers goods and chattels of this deponent, of the value of . . . . *l.*, which he the said C. D. hath refused to deliver up to this deponent, and hath converted to his own use.

*On a Policy of Insurance.*

Upon and by virtue of a certain policy of insurance on a certain ship or vessel of this deponent, on a voyage from . . . . to . . . . and which said policy was underwritten by the said W. Y., for the said sum of . . . . and which said ship or vessel, on her said voyage, was captured and taken as prize by certain enemies of our Lord the King, and which was one of the perils insured against in, and by the said policy; and



civ

*Appendix.*

that a loss of one hundred *per cent.* on the said policy, has since been adjusted and signed by the said W. Y., and the same remains unpaid to this deponent.

*For Money awarded under an order of Nisi Prius.*

For so much money awarded to be paid by the said C. D. to this deponent, at a certain day now past, in and by a certain award in writing, bearing date, [&c.] and made by one G. H. in pursuance of a certain order of *nisi prius*, made by consent, in a certain cause lately depending in this honourable court between this deponent and the said C. D.; and in the further sum of . . . .*l.*, being the costs of the said cause, as allowed on taxation, and which by the said order of *nisi prius* were ordered to be in the discretion of the said arbitrator, and by the said award were awarded to be paid by the said C. D. to this deponent; which said sum of . . . .*l.* and the costs aforesaid, are still wholly due and unpaid to this deponent.

*On a Money Bond.*

For principal and interest due on a certain bond, made and entered into by the said C. D. to this deponent, dated the . . . . day of . . . . in the penal sum of . . . .*l.* conditioned for the payment of . . . .*l.*, and lawful interest, at a certain day now past, and which sum of . . . .*l.* still remains due and unpaid to this deponent.

*Annuity Bond.*

Upon and by virtue of a certain bond, dated the . . . . day of . . . . and made and entered into by the said N. O. to this deponent in the penal sum of . . . ., conditioned for the payment of . . . . to this deponent yearly, and every year during the life of . . . . payable half yearly; and this deponent further saith, that there is now due to this deponent upon the said bond, two half-yearly payments, making together the said sum of . . . .

*On a Deed.*

Upon and by virtue of a certain indenture, bearing date

the . . . . and made between the said T. V. of the one part, and this deponent of the other part, whereby the said T. V. covenanted to pay to this deponent the said sum of . . . . at a day now past, but the same remains due and unpaid.

*By Executors of Surviving Executor.*

A. B. of . . . . maketh oath and saith, That C. D. is justly and truly indebted to E. F. and G. H. as executors of the last will and testament of J. K. deceased ; which said J. K. in his lifetime and at the time of his death, was surviving executor of the last will and testament of L. M. deceased, in the sum of . . . . l. for [&c.]

*On an Annuity Deed.*

Upon and by virtue of a certain indenture, bearing date the . . . . and made between the said J. K. of the one part, L. L. of the second part, and this deponent of the third part, whereby the said J. K. did grant unto this deponent a certain annuity, or yearly sum of . . . . l. for and during the natural life of him the said J. K., payable half-yearly unto this deponent ; and this deponent further saith, that two half-yearly payments of the said annuity, amounting together to the sum of . . . . are now in arrear and unpaid.

*Affidavit of Debt against a privileged Person under*  
4 Geo. III. cap. 33.

In the Exchequer of Pleas.

A. B. of [&c.], maketh oath and saith, That C. D., Esquire, having privilege of parliament, is justly indebted to this deponent in the sum of 100l. for money lent by this deponent to the said C. D., and at his request. And this deponent further saith, that the said C. D. is, as this deponent verily believes, a merchant, [*or, as the case may be*] within the description of the statutes relating to bankrupts.

Sworn, [&c.]

*Writ of Summons.**William the Fourth, &c.*

Rose.  
.. day of ..  
18..

To C. D. of ..... in the county of ..... greeting.  
We command you, [*or, as before, (or often) we have com-*  
*manded you*] that, within eight days after the service of this  
writ on you, inclusive of the day of such service, you do cause  
an appearance to be entered for you in our Court of Exchequer  
at Westminster, in an action on promises [*or, as the case may*  
*be*] at the suit of A. B.; and take notice, that in default of  
your so doing, the said A. B. may cause an appearance to be  
entered for you, and proceed thereon to judgment and  
execution.

Witness, John Singleton Lord Lyndhurst, at Westminster,  
the .... day of .... Rose.

*Memorandum to be subscribed on the Writ.*

N. B. This writ is to be served within four calendar  
months from the date thereof, including the day of such date,  
and not afterwards.

*Indorsement to be made on the Writ before Service  
thereof.*

This writ was issued by E. F., of ..... attorney, for the  
said A. B.

*Or,*

This writ was issued in person by A. B., who resides at  
.... [*mention the city, town, or parish, and also the name*  
*of the hamlet, street, and number of the house of the plaintiff's*  
*residence, if any such.*]

*Indorsement to be made on the Writ after Service  
thereof.*

This writ was served by me, X. Y., on .... the .... day  
of .... 18..

*Also to be indorsed when the action is to recover a debt.*

The plaintiff claims for the debt . . . . l.

And for costs . . . . . l.

And if the amount thereof be paid to the plaintiff or his attorney within four days from the service hereof, further proceedings will be stayed.

*Forms for entering an Appearance.*

A. plaintiff, against C. D. ;

or,

Against C. D., and another ;

or,

Against C. D., and others ;

The defendant C. D. appears in person.

E. F., attorney for C. D., appears for him.

G. H., attorney for the plaintiff, appears for the defendant, C. D., according to the statute.

Entered the . . . . day of . . . . 18..

*Writ of Distringas.*

*William the Fourth, &c.*

To the Sheriff of . . . . greeting.

We command you, that you omit not, by reason of any liberty in your Bailiwick, but that you enter the same, and distrain upon the goods and chattels of C. D., for the sum of forty shillings, in order to compel his appearance in our Court of Exchequer at Westminster, to answer A. B. in a plea of trespass on the case, [or debt, as the case may be] ; and how you shall execute this our writ, you make known to us, in our said court, on the . . . . day of . . . . now next ensuing.

Witness, John Singleton Lord Lyndhurst, at Westminster, the . . day of . . in the . . year of our reign. Rose.

*Notice to be subscribed to the foregoing writ.*

In the Court of Exchequer of Pleas.

Between { A. B., plaintiff,  
and  
C. D., defendant.

Mr. C. D.,

Take notice that I have this day distrained upon your

Rose  
.. day of ..  
18..

goods and chattels in the sum of 40s., in consequence of your not having appeared in the said court, to answer the said A. B., according to the exigency of a writ of summons, bearing teste on the . . . . day of . . . . and that, in default of your appearance to the present writ, within eight days inclusive after the return hereof, the said A. B. will cause an appearance to be entered for you, and proceed thereon to judgment and execution, (*or if the defendant be subject to outlawry, will cause proceedings to be taken to outlaw you*).

*The amount of debt and costs also to be indorsed.*

*Writ of Capias.*

*William the Fourth, &c.*

To the Sheriff of . . . .

*or,*

To the constable of Dover Castle ;

*or,*

To the Mayor and Bailiffs of Berwick-upon-Tweed ;

*or,*

[*As the case may be*], greeting.

We command you, [*or, as before, or, often we have commanded you*], that you omit not, by reason of any liberty in your Bailiwick, but that you enter the same, and take C. D. of . . . . if he shall be found in your Bailiwick, and him safely keep until he shall have given you bail, or made deposit with you, according to law, in an action on promises, [*or, of debt, &c.*] at the suit of A. B., or until the said C. D. shall, by other lawful means, be discharged from your custody. And we do further command you, that on execution hereof, you do deliver a copy hereof to the said C. D. ; and we hereby require the said C. D. to take notice, that within eight days after execution hereof on him, inclusive of the day of such execution, he should cause special bail to be put in for him, in our Court of Exchequer at Westminster, to the said action ; and that, in default of his so doing, such proceedings may be had and taken as are mentioned in the warning here-

Rose,  
.. day of ..  
18..

under written or indorsed hereon ; and we do further command you, the said sheriff, that immediately after the execution hereof, you do return this writ to our said court, together with the manner in which you shall have executed the same, and the day of the execution hereof ; or that, if the same shall remain unexecuted, then that you do so return the same at the expiration of four calendar months from the date hereof, or sooner, if you shall be thereto required by order of the said court, or by any judge thereof.

Witness, John Singleton Lord Lyndhurst, at Westminster,  
the . . . . day of . . . . Rose.

*Memorandum to be subscribed to the Writ.*

N.B.—This writ is to be executed within four calendar months from the date thereof, including the day of such date, and not afterwards.

*Warning to the Defendant.*

1. If a defendant, being in custody, shall be detained on this writ, or if a defendant being arrested thereon shall go to prison for want of bail, the plaintiff may declare against any such defendant, before the end of the term next after such detainer or arrest, and proceed thereon to judgment and execution.

2. If a defendant, being arrested on this writ, shall have made a deposit of money according to the statute 7 and 8 Geo. IV. c. 71, and shall omit to enter a common appearance to the action, the plaintiff will be at liberty to enter a common appearance for the defendant, and proceed thereon to judgment and execution.

3. If a defendant, having given bail on the arrest, shall omit to put in special bail as required, the plaintiff may proceed against the sheriff, or on the bail bond.

4. If a defendant, having been served only with a writ, and not arrested thereon, shall not enter a common appearance within eight days after such service, the plaintiff may

enter a common appearance for such defendant, and proceed thereon to judgment and execution.

*Indorsements to be made on the Writ of Capias.*

Bail for ..... l., by affidavit,

or,

Bail for ..... l., by order of [naming the judge making the Order], dated the .... day of ....

This writ was issued by E. F. of .... attorney to the plaintiff [or plaintiffs within named ;]

or,

This writ was issued in person by the plaintiff within named, who resides at ..... [mention the city, town, or parish, and also the name of the hamlet, street, and number of the house of the plaintiff's residence, if any such there be.]

The amount claimed for debt and costs also to be indorsed.

*Writ of Detainer.*

*William the Fourth, &c.*

To the Marshal of the Marshalsea of our court before us, [or, to the Warden of our Prison of the Fleet.]

We command you, that you detain C. D. if he shall be found in your custody at the delivery hereof to you, and him safely keep in an action on promises [or of debt, &c., as the case may be], at the suit of A. B., until he shall be lawfully discharged from your custody. And we do further command you, that on receipt hereof you do warn the said C. D., by serving a copy hereof on him, that within eight days after service of such copy, inclusive of the day of such service, he do cause special bail to be put in for him in our Court of Exchequer at Westminster, to the said action ; and that in default of his so doing, the said A. B. may declare against him before the end of the term next after his detainer, and proceed thereon to judgment and execution. And we do further command you the said marshal [or warden, as the case may be] that, immediately after the service hereof, you do

Rose  
.. day of ..  
18..

return this our writ, or a copy hereof, to our said court, together with the day of the service hereof.

Witness John Singleton Lord Lyndhurst, at Westminster, the . . . . day of . . . . Rose.

N. B.—*This writ is to be endorsed in the same manner as the Writ of Capias, but not to contain the warning on that writ.*

*Writ of Summons to be served on a Member of Parliament, in order to enforce the Provisions of the Statute 6 Geo. IV. c. 16, s. 10.*

*William the Fourth, &c.*

To C. D. of &c. . . . Esquire, having privilege of Parliament greeting:—

We command you, that, within one calendar month next after personal service hereof on you, you do cause an appearance to be entered for you in our Court of Exchequer at Westminster, in an action on promises, [debt, &c. *as the case may be*] at the suit of A. B.; and you are hereby informed that an affidavit of debt for the sum of . . . . hath been filed in the proper office, according to the provisions of a certain act of Parliament made and passed in the sixth year of the reign of his late Majesty King George the Fourth, intituled “An Act to amend the Laws relating to bankrupts,” and that unless you pay, secure, or compound for the debt sought to be recovered in this action, or enter into such bond as by the said act is provided, and cause an appearance to be entered for you, within one calendar month next after such service hereof, you will be deemed to have committed an act of bankruptcy from the time of the service hereof.

Witness John Singleton Lord Lyndhurst at Westminster, the . . . . of . . . . Rose.

N. B.—*This Writ is to be served within four calendar months from the date thereof, including the day of such date and not afterwards.*

Direction.—*This summons is to be indorsed with the name of the plaintiff or his attorney in like manner as the Writ of Capias; also with the amount of debt and costs as claimed.*

Rose  
.. day of  
18..



*Writ of Distringas to County Palatine of Lancaster or Durham.**William the Fourth, &c.*

Rose.  
.. day of ..  
16..

To the Chancellor of our County Palatine of Lancaster, or his deputy there: [*or*, "To the Rev. Father in God, by Divine Providence, Lord Bishop of Durham, or his chancellor there,"] greeting:—We command you that by our writ under the seal of our said county palatine, to be duly made and directed to the sheriff of our said county palatine, you command the said sheriff [*or, if in Durham*, that, by our writ under the seal of your bishopric, to be made and directed to the Sheriff of the County of Durham, you cause the said sheriff to be commanded] that he omit not by reason of any liberty in his bailiwick, but that he enter the same, and distrain upon the goods and chattels of C. D. for the sum of 40*s.*, in order to compel his appearance in our Court of Exchequer at Westminster, to answer A. B. in a plea of trespass on the case [*or debt, or as the case may be*], and how he shall execute that our writ be made known to us in our said court, on the . . . . day of . . . . now next ensuing.

Witness John Singleton Lord Lyndhurst, at Westminster, the . . . . day of .. in the . . . . year of our reign.      Rose.

*Notice to be subscribed to the foregoing Writ.*

In the Court of Exchequer.

Between      {      A. B. Plaintiff,  
                                and  
                                C. D. Defendant.

Mr. C. D.

Take notice, that I have this day distrained on your goods and chattels, in the sum of 40*s.*, in consequence of your not having appeared in the said court, to answer to the said A. B. according to the exigency of a writ of summons, bearing teste on the . . . . day of . . . . and that, in default of your appearance to the present writ within eight days inclusive after the

return hereof, the said A. B. will cause an appearance to be entered for you, and proceed thereon to judgment and execution [*or (if the defendant be subject to outlawry) will cause proceedings to be taken to outlaw you.*]

*Writ of Capias to a County Palatine.*

*William the Fourth, [&c.]*

To the Chancellor of our County Palatine of Lancaster, or his deputy there: [*or, "To the Rev. Father in God . . . by Divine Providence Lord Bishop of Durham, or to his Chancellor there"*], greeting.—We command you that by our writ under the seal of our said county palatine, to be duly made and directed to the sheriff of our said county palatine, you command the said sheriff [*or, if in Durham, that, by our writ under the seal of your bishopric, to be duly made and directed to the Sheriff of the County of Durham, you cause the said sheriff to be commanded*] that he omit not by reason of any liberty in his bailiwick, but that he enter the same, and take C. D. of . . . . . if he shall be found in his bailiwick, and him safely keep until he shall have given him bail or make deposit with him according to law in an action on promises, [*or, of debt, &c.*] at the suit of A. B., or until the said C. D. shall by other lawful means be discharged from his custody: and that he further command him, that, in execution thereof, he do deliver a copy thereof to the said C. D. And that the said writ do require the said C. D. to take notice, that, within eight days after execution thereof on him, inclusive of the day of such execution, he should cause special bail to be put in for him in our Court of Exchequer, at Westminster, to the said action; and that, in default of his so doing, such proceedings may be had and taken as are mentioned in the warning thereunder written, or indorsed thereon; and that he further command the said sheriff, that, immediately after the execution thereof, he do return that writ to our said court, together with the manner in which he shall have executed the same, and the day of the execution thereof; or that, if the same shall remain unexecuted, then that he do so return the

Rose  
.. day of ..  
18..

same at the expiration of four calendar months from the date thereof, or sooner if he shall be thereto required by order of the said court, or by any judge thereof.

Witness, John Singleton Lord Lyndhurst, at Westminster,  
the . . . . day of . . . . Rose.

*Memorandum to be subscribed to the Writ.*

N. B.—This writ is to be executed within four calendar months from the date hereof, including the day of such date, and not afterwards.

*Warning to the Defendant.*

1. If a defendant, being in custody, shall be detained on this writ, or if a defendant, being arrested thereon, shall go to prison for want of bail, the plaintiff may declare against such defendant before the end of the term next after such detainer or arrest, and proceed thereon to judgment and execution.

2. If a defendant, being arrested on this writ, shall have made a deposit of money according to the stat. 7 & 8 Geo. IV., c. 71, and shall omit to enter a common appearance to the action, the plaintiff will be at liberty to enter a common appearance for the defendant, and proceed thereon to judgment and execution.

3. If a defendant, having given bail on the arrest, shall omit to put in special bail as required, the plaintiff may proceed against the sheriff, or on the bail-bond.

4. If a defendant, having been served only with this writ, and not arrested thereon, shall not enter a common appearance within eight days after such service, the plaintiff may enter a common appearance for such defendant, and proceed thereon to judgment and execution.

*Indorsements to be made on the Writ of Capias.*

Bail for . . . . l., by affidavit.

*Or,*

Bail for . . . . l., by order of [naming the Judge making the order] dated the . . . . day of . . . .

*Forms.*

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This writ was issued by E. F. of . . . . ., attorney for the plaintiff [*or plaintiffs*] within named.

*Or,*

This writ was issued in person by the plaintiff within named [*mention the city or parish, and also the name of the hamlet, street, and also the number of the house of the plaintiff's residence, if any such there be*].

*(Signed by all the Judges.)*

*Form of Jurat for illiterate Persons.*

Sworn at . . . . . in the county of . . . . . the . . . . day of . . . . in the year of our Lord . . . . before me. And I do hereby certify, that the above affidavit was read in my presence, to the above-named A. B., and that he seemed perfectly to understand the same, and also that the said A. B. wrote his mark thereto, in my presence.

E. F., a commissioner, [*&c.*]

*Note.—If there are more deponents than one to an affidavit, the names of every deponent must be inserted in the jurat as having been sworn.*

*Special Bail Piece.*

In the Exchequer of Pleas.

*Hilary* Term, in the third year of the reign of King William the Fourth.

*Somersetshire* (to wit). C. D., having been arrested, is delivered to bail on a *cepi corpus*, to G. H., of, [*&c.*]

and

I. K., of, [*&c.*]

At the suit of A. B.

Oath for 20*l.* }

Bail in 40*l.* }

*Signed by the Bail,*

{ G. H.

{ I. K.

L. M., New Inn,

For Defendant.

Taken and acknowledged (conditionally), at . . . . . the *twenty-fourth day of January, 1833*, before me,

N. O., by Commission.

*Affidavit of Caption before a Commissioner.*

In the Exchequer of Pleas.

Between      {    A. B., Plaintiff,  
                                and  
                                C. D., Defendant.

C. J., of, [&c.] maketh oath and saith, That the recognizance, or bail piece, hereunto annexed, was duly acknowledged by E. F. and G. H., the bail therein named, before L. M., gentleman, who took the same in the presence of this deponent. *Sworn* [&c.]

*Affidavit of Justification in the Country.*

Between      {    A. B., Plaintiff,  
                                and  
                                C. D., Defendant.

E. F., of, [&c.] and G. H., of, [&c.] severally make oath and say: and first, this deponent, E. F., for himself, saith, That he is a housekeeper [*or freeholder*], in . . . . . and is worth 40*l.*, over and above what will pay all his just debts, and over and above any sum for which this deponent has become bail for the above defendant, or any other person, (*or*, and this deponent saith, that he is not bail in any other action); and this deponent, G. H., for himself, saith, That he is a housekeeper, in . . . . . and is worth 40*l.*, over, [&c.]

*Sworn*, [&c.]

E. F.  
G. H.

*Notice of Bail in a Town Cause.*

**In the Exchequer of Pleas.**

**Between**      {    **A. B., Plaintiff,**  
                              **and**  
                              {    **C. D., Defendant.**

Take notice, That special bail was this day put in for the defendant in this cause, before the honourable Mr. Baron . . . . . at his chambers in Serjeant's Inn, Chancery Lane, and the names and additions of such bail are L. M., of, [&c.] . . . . ., and N. O., of, [&c.] . . . . ., and that the said L. M. is a housekeeper, and hath *within* the last six months resided at . . . . . and also at . . . . . and that the said N. O. is a freeholder, and hath *for* the last six months resided at . . . . . aforesaid. And take notice, that the bail piece and affidavit of caption have been filed with the filazer at the Exchequer Office, Lincoln's Inn. Dated, [&c.]

**Yours, &c.**

**G. H., Symond's Inn,  
Defendant's Attorney.**

**To Mr. E. F,  
Plaintiff's Attorney.**

**Notice of Exception.**

**In the Exchequer of Pleas.**

Between { A. B., Plaintiff,  
and  
C. D., Defendant.

I except against the bail put in by the defendant in this cause. Dated this .... day of .... 1831.

Yours, &c.

**E. F., New Inn,  
Attorney for Plaintiff.**

**To Mr. G. H.,  
Attorney for Defendant**

*Notice of Justification.*

In the Exchequer of Pleas.

Between      { A. B., Plaintiff,  
                            and  
                            C. D., Defendant.

Take notice, That L. M. and N. O., who became bail for the defendant in this cause, and of whom you have before had notice, will on . . . . next, justify themselves in open court at Westminster Hall, in the County of Middlesex, [*or, by affidavit*] as good and sufficient bail for the said defendant in this cause. Dated, [&c.]

Yours, &c.

G. H., Symond's Inn,  
Defendant's Attorney.

To Mr. E. F.,  
Plaintiff's Attorney.

*Notice of adding and justifying Bail.*

In the Exchequer.

Between      { A. B., Plaintiff,  
                            and  
                            C. D., Defendant.

Take notice, That R. N. of [&c.], and P. Q. of [&c.], will on . . . . next, at . . . . o'clock in the . . . . noon, add themselves to the bail already put in for the defendant in this cause, and will at the same time justify themselves in open court at Westminster Hall, in the County of Middlesex, [*or, by affidavit*] (*or* before the honourable Mr. Baron . . . . at his chambers, Serjeant's Inn, Chancery Lane), as good and sufficient bail for the said defendant. And take notice, That the said R. N. is a housekeeper, and has *for* the last six months resided at, [&c.] and the said P. Q. is also a housekeeper, [&c.] Dated, [&c.]

*Notice of adding one Bail, and justifying.*

Exchequer of Pleas.

Between      {    A. B., Plaintiff,  
                            and  
                            C. D., Defendant.

Take notice, That I. K. of, [&c.] will on, [&c.] add himself to the bail already put in for the defendant in this cause; and that he, together with G. H., one of the bail already put in for the said defendant, and of whom you have before had notice, will at the same time justify themselves [*by affidavit*] in open court at Westminster Hall, in the County of Middlesex, [*or, before the honourable Mr. Baron . . . . at . . . . o'clock in the . . . . noon, at his chambers in Serjeant's Inn, Chancery Lane,*] as good and sufficient bail for the said defendant in this cause, and take notice, That the said I. K. is a housekeeper, and has for the last six months resided at, [&c.] Dated, [&c.]

*Notice of putting in and justifying Bail.*

Exchequer of Pleas.

Between      {    A. B., Plaintiff,  
                            and  
                            C. D., Defendant.

Take notice, That E. F. of, [&c.] and G. H. of, [&c.] will on, [&c.] become bail for the defendant in this cause, and will at the same time justify themselves in open court at Westminster Hall, in the County of Middlesex (*or, before the honourable Mr. Baron . . . . ., at his chambers in Serjeant's Inn, Chancery Lane*), as good and sufficient bail for the said defendant in this cause; and further take notice, that the said E. F. and G. H. are both housekeepers, and have



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*Appendix.*

respectively resided at their respective places of abode for the last six months. Dated . . . .

I. K.

Defendant's Attorney.

To Mr. E. F.,  
Plaintiff's Attorney.

*The like notice will do for a Prisoner.*

*Notice of requiring Time to inquire after Bail.*

Exchequer of Pleas.

Between { L. S., Plaintiff,  
and  
M. P., Defendant.

Take notice, That I require two (*or more as the case may be*) days' further time to inquire into the sufficiency of the bail put in by the defendant in this cause, and of whom you have given notice of justification for . . . . next; and I therefore require that the justification of the said bail may be postponed until, [&c.]

Yours, &c.

S. T.

Plaintiff's Attorney.

To Mr. P. Q.,  
Defendant's Attorney.

*Affidavit of service of Notice of Bail.*

Exchequer of Pleas.

Between { A. B., Plaintiff,  
and  
C. D., Defendant.

K. L. of [&c.], That he did, (before eleven o'clock in the forenoon), on the . . . . serve Mr. E. F., the plaintiff's attorney, with a true copy of the notice hereunto annexed, by leaving the same at, [&c.]

*Sworn, [&c.]*

K. L.

*Notice of Bail Piece, &c., taken before a Commissioner.*

Exchequer of Pleas.

Between } A. B., Plaintiff,  
and  
C. D., Defendant.

Take notice, That the bail piece in this cause was this day allowed, conditionally, by the honourable Mr. Baron . . . . ., and was afterwards, with the affidavit of due taking thereof, left with the filazer, at the Exchequer Office, Lincoln's Inn. And the names and additions of such bail, are K. L. of . . . . ., and O. P. of . . . . ., and that they are both housekeepers; and the said K. L. hath resided at . . . . aforesaid, during the last six months, and the said O. P. hath also resided at . . . . aforesaid, during the last six months.

Yours, &amp;c.

G. H., Symond's Inn,  
Defendant's Attorney.

To Mr. E. F.,  
Plaintiff's Attorney.

*Affidavit as to the property of Bail.*

In the Exchequer of Pleas.

Between } X. Y., Plaintiff,  
and  
Z. Z., Defendant.

A. B., one of the bail for the above-named defendant, maketh oath and saith, That he is a housekeeper (or freeholder, *as the case may be*) residing at (*describing particularly the street, or place, or number, if any*), and that he is worth the sum of . . . . l., (*the amount required by the practice of the courts*), over and above all his just debts; (*if bail in any other action, add and every other sum for which he is now bail*), that he is not bail for any defendant, except in this action, (*or if bail in any other action or actions, add except for C. D.*

at the suit of E. F. in the court of . . . , in the sum of . . . l., for G. H., at the suit of J. K., in the court of . . . , in the sum of . . . l., *specifying the several actions with the courts in which they are brought, and the sums in which the deponent is bail*), that the deponent's property to the amount of the said sum of . . . l., *(and if bail in any other action or actions, of all other sums for which he is now bail as aforesaid)*, consists of *(here specify the nature and value of the property in respect of which the bail proposes to justify, as follows)*, stock in trade in his business of . . . , carried on by him at . . . , of the value of . . . l. ; of good book debts owing to him in the amount of . . . l. ; of furniture in his house of the value of . . . l. ; of a freehold or leasehold farm of the value of . . . l., situate at . . . occupied by . . . or of a dwelling-house of the value of . . . l. situate at . . . occupied by . . . *(or of other property, particularizing each description of property with the value thereof)*, and that the deponent hath for the last six months resided at . . . *(describing the place or places of such residence)*.

Sworn, [&amp;c.]

A. B.

*Notice of Render.*

In the Exchequer of Pleas.

Between	}	S. T., Plaintiff,
		and
		T. S., Defendant.

Take notice, That the above-named defendant did this day render himself (*or, was this day rendered*) in discharge of his bail at the suit of the above-named plaintiff, and was thereupon committed by the honourable Mr. Baron . . . to the custody of the Warden of his Majesty's prison of the Fleet, there to remain until, [&c.] Dated the . . . day of . . .

Yours, &amp;c.,

I. K., Attorney for Defendant,  
[or Bail.]

To Mr. S. P.,  
Plaintiff's Attorney.

*Judges Order for rendering a Defendant, not being in custody, to a County Gaol, on Stat. 1, Will. IV., c. 70. s. 21.*

A. } Upon hearing G. H., the defendant (*or* S. K. and  
B. } P. L. the bail, *or* S. K., one of the bail for the defendant,  
*or* S. P. the attorney or agent of the said G. H., [&c.],) and  
upon reading the affidavit of . . . . ., (*if any*), I do order  
that the said G. H. may be rendered in discharge of his bail  
in this action, to the common gaol of the county of . . . , there  
to remain until, [&c.], according to the form of the statute in  
such case made and provided. Dated, [&c.]

*The like where Defendant is in Custody in another Action.*

A. } Upon hearing [&c.], I do order that the said G. H.  
B. } may be rendered in discharge of his bail in this action  
*in* the common gaol of the county of . . . there to remain  
until [&c.], according to the form of the statute in such case  
made and provided. Dated, [&c.]

*Notice of Lodging such Order.*

In the Exchequer of Pleas.

Between      { A. B., Plaintiff,  
                                and  
                                G. S., Defendant.

Take notice, That the above-named defendant was on, [&c.]  
[*naming the day*] rendered in discharge of his bail in this  
action to (*or in*) the common gaol of the county of . . .  
pursuant to the order of the honourable Mr. Baron . . . .  
dated the . . . day of . . . and that the said order was duly  
lodged with the gaoler of the said gaol, and that the said  
defendant is now actually in custody of such gaoler, by virtue  
of the said order. Dated, &c.

Yours, &c.

M. P.,  
Attorney or Bail for Defendant.

*Affidavit of Personal Service of Writ of Summons.*

In the Exchequer of Pleas.

Between  $\left\{ \begin{array}{l} \text{A. B., Plaintiff,} \\ \text{and} \\ \text{C. D., Defendant.} \end{array} \right.$

E. F., of, [&c.] maketh oath and saith, That on the first day of December last, he, this deponent, did personally serve the defendant above-named, with a true copy of a writ of summons, at the suit of the above-named plaintiff, against the said defendant, which appeared to this deponent to be regularly issued out of and under seal of this honourable court; to which said copy a memorandum was subscribed, and an indorsement made thereon pursuant to the statute in such case made and provided; and this deponent further saith, That he did, on the . . . day of . . . last, indorse on the said writ the day of the month and week of the service thereof.

E. F

*Sworn, [&c.]*

*Affidavit of Service of Writ of Summons on motion  
for a Writ of Distringas.*

In the Exchequer of Pleas.

Between  $\left\{ \begin{array}{l} \text{A. B., Plaintiff,} \\ \text{and} \\ \text{C. D., Defendant.} \end{array} \right.$

G. H. of, [&c.] clerk to E. F. of . . . , maketh oath and saith, That he, this deponent, did *on the eleventh day of January instant*, serve C. D. the above-named defendant, with a true copy of a writ of summons in this cause, appearing to this deponent to have been regularly issued out of and under the seal of this honourable court, on the . . . day of . . . against the said defendant, at the suit of the said plaintiff, by delivering a true copy thereof, and at the same time showing the said original writ to a female, at the dwelling-house of the said

defendant, situate at : . . . . . which said female informed this deponent that she was the wife of the said defendant, and which this deponent verily believes. And this deponent further saith, That he used all the means in his power to serve the said defendant personally with the said copy of the said writ of summons, having attended at the said dwelling-house of the said defendant *on the eighth of January*, and several days previous thereto, for the purpose of serving him personally, but without meeting with the said defendant. And this deponent further saith, That *on the said eighth day of January*, he saw the same female above-mentioned, at the said dwelling-house, when he, this deponent, informed her of the object of his errand, and that he should call again *at twelve o'clock at noon on the ensuing day*, for the same purpose. And this deponent saith, That he did accordingly call again *at twelve o'clock at noon of the ninth day of January instant*, when the same female informed this deponent, that the said defendant was from home, and refused to inform this deponent where the said defendant was to be found [*or, as the case may be.*] And this deponent saith, he informed the said female he should call again *on the next day at twelve o'clock at noon*, for the same purpose. And this deponent saith, he attended again accordingly *on the tenth day of January instant*, at the said hour of *twelve o'clock*, when he received a similar answer from the same female. That, thereupon, he informed the said female he should try once more, and that he would call again *on the ensuing day, at twelve o'clock at noon*. And this deponent further saith, he did accordingly call again at the appointed time *on the eleventh day of January instant*, being the said return day of the said writ, when the same female informed this deponent, that whether her husband was at home or not, it was useless for this deponent to give himself any further trouble [*here relating the conversation whatever it might be*], for that the said defendant would not see this deponent, if he were at home, and refused to say when or where he could be met with. And this deponent saith, that from the above circumstances, he verily believes the defen-

dant was either at home, and refused to be seen, or that he kept out of the way to avoid service, and thereupon he left a true copy of the said writ of summons with the said female, and at the same time showed her the said original writ, to which said writ and copy, a memorandum was subscribed and an indorsement made thereon, pursuant to the statute in such case made and provided ; and this deponent further saith, That he did on the . . day of . . . last, indorse on the said writ the day of the month and week of the service thereof.

*Sworn, [&c.]*

G. L.

*Authority to restore Issues on Appearance.*

Between  $\left\{ \begin{array}{l} \text{A. B., Plaintiff,} \\ \text{and} \\ \text{C. D., Defendant.} \end{array} \right.$

To the Sheriff of *Middlesex* or his bailiff in this case appointed.

Sir,

The defendant having appeared, you are hereby authorised and required to restore to him the issues levied by you, on process issued in this cause between the said parties ; for which this shall be your warrant. Dated *this first day of February, 1833.*

E. F., New Inn,  
Attorney for the above-named plaintiff.

*Præcipe for Writ of Summons against Corporation of London.*

*Surrey* (to wit). Writ of summons for A. B. against the Mayor, Commonalty, and Citizens of London, in a plea of, [&c.] J. S. &c.

*Supersedeas, for defect of Affidavit.*

*William the Fourth, [&c.]*

To the Sheriff of *Middlesex*, greeting. Whereas by our writ we lately commanded you, That you should not

Rose  
.. day of ..  
13..

omit, by reason of any liberty in your bailiwick, but that you should enter the same, and take C. D. of, [&c.] if he should be found in your bailiwick, and him safely keep, until he should have given you bail, or made deposit with you according to law, in an action of, [&c.] at the suit of S. P., or until the said C. D. should by other lawful means be discharged from your custody, [&c.] as in our said writ is more fully contained: And whereas since the issuing of our said writ (to wit) on the .. day of .. instant, by an order made by the Honourable Mr. Baron .... (or by a rule of this honourable court made the .. day of ..) it was ordered that a *supersedeas* should issue to discharge the said C. D. out of your custody, as to the action, of the said S. P., for insufficiency in the affidavit, to hold the said C. D. to bail, upon entering a common appearance: And whereas the said C. D. hath put in his place G. H., his attorney in our court, before the Barons of our said Exchequer, to answer the said S. P. of the plea aforesaid; therefore we command you, that if the said C. D. be detained in our prison under your custody, on the occasion above-mentioned, and no other; you immediately discharge the said C. D. out of your custody, and suffer him to go at large, as you will answer the contrary at your peril. Witness, [&c.]

Rose.

*Rule to return Writ of Capias.*

In the Exchequer of Pleas.

*Hilary Term*, in the first year of the reign of King William the Fourth.

A. B. against C. D.

Wednesday, the 11th } *Side-bar.* It is ordered, That the  
day of January. } Sheriff of the County of *Middlesex*,  
peremptorily return here into court his Majesty's writ of *capias* to him directed, between the said parties, within four days after notice to be given to him or his under-sheriff.

*By the Court,*

Rose.

[*In the country it is a six-day rule.*]



*The like, in a County Palatine.*

[*As before to "peremptorily,"*] return to the Chancellor of the said county the said Chancellor's mandate, granted on a writ of *capias*, to him directed and delivered, between the said parties. And that the said Chancellor do also peremptorily return the said writ of *quo minus*, within, [&c.]

*Affidavit of Service of Rule.*

In the Exchequer of Pleas.

Between      {    A. B. Plaintiff,  
                                and  
                                C. D. Defendant.

E. F. of [&c.] That he did, on . . . personally serve the under-sheriff of the County of *Middlesex* with a true copy of the rule hereunto annexed, at the office of the said under-sheriff in Red Lion Square, and at the same time showed him the said original rule.

*Sworn*, [&c.]

*Rule to bring in the Body.*

A. B. Plaintiff, against C. D. Defendant.

*Side-bar.* It is ordered, That the Sheriff of the County of *Middlesex* do peremptorily bring here into court the body of the said defendant, whom he has taken and detains in his custody, by virtue of his Majesty's writ of *capias*, issued between the said parties, as the said sheriff has charged himself by his return made on the said writ, within four days next after notice of this rule, to be given to him or his under-sheriff.

*By the Court,*      Rose.

[*The affidavit of service is the same as affidavit of service rule to return writ.*]

*Attachment against the Sheriff.**William the Fourth, [&c.]*

To the Coroners of *Middlesex*, greeting. We command you, That you omit not, by reason of any liberty of your county, but that you enter the same, and attach H. B. and C. J., Esquires, sheriff of your said county, by their bodies, so that you may have them before the Barons of our Exchequer at Westminster, on, [&c.] to answer us concerning divers trespasses, contempts, and offences by them lately done and committed; and have there then this writ. Witness, [&c.]

E. F., New Inn.

Rose.

*Indorsement thereon:*

A. B. against C. D.

By a rule of Court made *the eighteenth day of January, 1831*, for not bringing in the body of the defendant [*or, as the case may be*] pursuant to a rule of Court made in this cause for that purpose.

*Affidavit to be admitted to sue in Formâ Pauperis.*

In the Exchequer of Pleas.

Between      { A. B. Plaintiff,  
                                and  
                                C. D. Defendant.

A. B. of, [&c.] That he is not worth 5*l.* in the world, save and except his wearing apparel, *and the matter in question in this cause.*

Sworn, [&amp;c.]

*Petition thereon.*

In the Exchequer of Pleas.

Between      { A. B. Plaintiff,  
                                and  
                                C. D. Defendant.

To the Right Honourable John Singleton Lord Lyndhurst,  
Lord Chief Baron of his Majesty's Court of Exchequer

at Westminster, and the rest of the Barons of the same Court.

The humble petition of A. B., the plaintiff above-named, sheweth, That the above-named defendant is justly indebted unto your petitioner in the sum of 20*l.* for, [&c.] And your petitioner hath commenced an action against him for the same; but is [*or, hath not yet commenced any action against the said defendant, for the same, being*] unable to carry on the said cause, on account of his extreme poverty, as appears by the affidavit hereto annexed.

Your petitioner therefore most humbly prays your Honours, that he may be admitted to prosecute his said action in the form of a poor person; and that R. V., Esquire, may be assigned to him as his counsel, and E. V., Gentleman, as his attorney, to prosecute his said suit.

And your petitioner shall ever pray, &c.

A. B.

Witness, G. H.

*Consent of Counsel.*

I humbly conceive that the said petitioner has good cause of action against the above-named C. D.: And consent to be his counsel.

R. V.

*Order thereon.*

A. B. Plaintiff, against C. D. Defendant.

Upon reading the petition and affidavit of A. B., and the certificate of counsel, I do admit the plaintiff to sue in *forma pauperis*, and I do assign R. V., Esquire, to be his counsel, and E. V., Gentleman, to be his attorney. Dated [&c.]

*Petition to be admitted to sue by Prochein Amy.*

In the Exchequer of Pleas.

	{	A. B. Plaintiff,
Between		and
		C. D. Defendant.

The humble petition of A. B., the plaintiff, in this cause, sheweth, That your petitioner has, as he is advised, good

cause of action against the above-named C. D. for, [&c.] and that your petitioner has lately commenced an action, in this honourable court, against the said C. D. for the same ; but in regard that your petitioner is an infant under the age of twenty-one years (to wit), of the age of eighteen years ;

Your petitioner humbly prays your honours to admit him to prosecute the said action by E. F. of, [&c.] your petitioner's next friend.

And your petitioner shall ever pray, [&c.]

Witness, G. H.

A. B.

*Petition to defend by Guardian.*

In the Exchequer of Pleas.

Between { A. B. Plaintiff,  
and  
C. D. Defendant.

The humble petition of C. D., the above-named defendant, sheweth, That the above-named plaintiff has lately commenced an action against your petitioner, in this honourable court, for [&c.] ; and your petitioner is advised, and believes, that he has a good defence thereto ; but in regard that your petitioner is an infant, under the age of twenty-one years (to wit), of the age of eighteen years ;

Your petitioner humbly prays your honours, that you will be pleased to assign E. F. of, [&c.] as his guardian to defend this suit.

And your petitioner shall ever pray, [&c.]

Witness, G. H.

C. D.

*Consent of Prochein Amy, or Guardian.*

I do hereby consent and agree, That the above-named A. B. shall be at liberty to prosecute this action by me as his next friend, [*or, that the above-named C. D. shall be at liberty to defend this action by me as his guardian*] according to the

prayer of the above petition. Witness my hand, this . . . .  
day of . . . .

Witness, G. H.

E. F

*Affidavit of Signature of Petition, and Consent.*

In the Exchequer of Pleas.

Between      {    A B. Plaintiff,  
                                and  
                                C. D. Defendant.

G. H. of . . . . . maketh oath and saith, That A. B., the  
above-named plaintiff [*or, C. D., the above-named defendant*]  
did, on the . . . . day of . . . . instant, duly sign the petition  
hereunto annexed, in the presence of this deponent: And  
this deponent further saith, That at the said time he was pre-  
sent and did see E. F., the person mentioned in the prayer  
of the said petition, duly sign the consent or agreement there-  
under written, as the next friend of the said A. B., [*or,*  
*as the guardian of the said C. D.*]

*Sworn, [&c.]*

G. H.

*Order on Petition by Plaintiff.*

Upon reading the above petition, and the affidavit thereto  
annexed, I do admit E. F. to prosecute for the said A. B.,  
who is under the age of twenty-one years, against C. D., in a  
certain action of, [&c.] as the next friend of the said A. B.,  
during his minority. Dated, [&c.]

*Rule of Court, on Petition by Defendant.*

It is ordered by the court, That E. F. be admitted to de-  
fend for C. D., who is under the age of twenty-one years, at  
the suit of A. B., in a certain plea of, [&c.] as the guardian  
of the said C. D., during his minority.

*By the Court,*  
Rose

*Notice of Action against a Justice, for False Imprisonment.*

To C. D. Esq.

Sir,

You having, on or about the .... day of .... instant, as one of his Majesty's justices of the peace in and for the county of ..... caused me to be apprehended and unlawfully committed to a certain common gaol or prison, called ..... in and for the same county, and to be there imprisoned, and kept and detained in prison there, without any reasonable or probable cause whatsoever, for a long space of time; that is to say, for the space of .... then next following: I do hereby, according to the form of the statute in such case made and provided, give you notice, That, after the expiration of one calendar month from the time of your being served with this notice, I shall cause a writ of summons to be sued out of his Majesty's Court of Exchequer at Westminster, against you, at my suit, for the said imprisonment, and shall proceed against you thereupon according to law. Dated this .... day of .... 1831.

Yours, &c.

A. B. of .....

To ..... Esq. [&c.]

*To be indorsed with the name and address of the attorney who is to bring the action.*

*The same by an Attorney or Agent.*

You having, on or about the .... day of .... as one of his Majesty's justices of the peace in and for the county of ..... caused D. B. of ..... to be apprehended, &c. [*as above*]; I do, as the attorney [*or agent*] of and for the said D. B. in this behalf, according to the form of the statute in such case made and provided, hereby give you notice, That at the expiration of one calendar month from the time of your being served with this notice, I shall cause a writ of summons

to be sued out of his Majesty's Court of Exchequer at Westminster, against you, at the suit of the said D. B. for the said imprisonment, and shall proceed against you thereupon according to law. Dated this . . . . day of . . . . 18..

Yours, &c.

E. K. of . . . . .

Attorney (or agent)

for the said D. B.

To S. P. Esq.,

One of his Majesty's Justices, [&c.]

[*To be indorsed as before.*]

*The like Notice to Excise Officers, for seizing Goods.*

To C. D. and E. F.

You having, on or about the . . . . day of . . . . last, as officers of his Majesty's Excise, unlawfully seized, taken, and carried away divers large quantities, that is to say, . . . . . belonging to me, and being of a large value, that is to say, of the value of . . . . £, and converted and disposed of the same to your own use; I do hereby give you notice, [*as before.*]

*If given by an attorney, it must be varied accordingly.*

*Notice to Custom-House Officers by Attorney or Agent.*

You having, on or about the . . . . . day of . . . . . last, unlawfully seized and taken possession of certain goods and chattels, to wit, [*naming and setting out the articles*], of and belonging to K. H. of . . . . . and being of a large value, that is to say, of the value of . . . . £, and from thence hitherto unlawfully kept and detained the same [*naming the articles*] and converted and disposed thereof to your own use; I do, as the attorney [*or agent*] of and for the said K. H. in this behalf, according to the form of the statute in such case made and provided, hereby give you notice, That, at the expiration of one calendar month from the time of your being served with this notice, I shall cause a writ of summons to be sued out of his Majesty's Court of Exchequer

*Forms.*

CXXXV

at Westminster, against you, at the suit of the said K. H. for the said trespass, and shall proceed against you thereupon according to law. Dated, [&c.]

Yours, &c.

F. T.

Attorney (or agent)

for the said K. H.

To F. S. and M. P.,  
Officers of his Majesty's Customs.

*Demand on a Constable, of the Perusal and Copy of a Warrant.*

I do hereby, according to the form of the statute in such case made and provided, demand of you, the perusal and copy of the warrant, by virtue or under colour whereof you did, on or about the . . . . day of . . . . last, apprehend, and carry and convey me in custody to and before J. C. Esquire, one of his Majesty's justices of the peace in and for the county of . . . . .

Yours, &c.

To Mr. G. H. [&c.]

A. B. of . . . . .

*The like on a Gaoler.*

To Mr. C. D.

I do hereby, according to the form of the statute in such case made and provided, demand of you the perusal and copy of the warrant of commitment and detainer under which you received me into your custody, on or about the . . . . day of . . . . last, and kept and detained me in custody for the space of . . . . . then next following. Dated, [&c.]

Yours, &c.

To Mr. I. K. [&c.]

E. F.



*Affidavit of Deposit of Money in hands of Sheriff, Bail not having been perfected.*

In the Exchequer of Pleas.

Between      { A. B. Plaintiff,  
                            and  
                            C. D. Defendant.

E. F., of, [&c.] maketh oath and saith, That the above-named defendant was arrested by the sheriff of Middlesex, at the suit of the above-named plaintiff, by virtue of a writ of *capias* issued out of this honourable court on the . . . day of, [&c.] Whereupon the said defendant, in lieu of giving bail to the said sheriff, deposited in his hands the sum of 20*l.*, being the sum indorsed on the same writ, together with 10*l.*, in addition thereto for costs ; which several sums of money have been since paid into court by the said sheriff. And this deponent further saith, that bail above hath not been put in for the defendant in this cause [*or, that bail above was put in, but the same was not perfected.*]

Sworn, [&c.]

E. F.

*Affidavit of Deposit of Money in hands of Sheriff, where Bail has been perfected.*

[*As in the last form, to "paid into court by the said sheriff."*] And this deponent further saith, that bail above hath been put in for the defendant in this cause, and that the same was on . . . duly perfected.

*Rule for Payment of Deposit into Court in lieu of Bail.*

In the Exchequer of Pleas.

B. against D.

It is ordered that the defendant have leave to pay into court, the sum of 100*l.*, for the debt, and the sum of 20*l.*, as a security for costs, making together the sum of 120*l.*, to

abide the event of this cause, or the further order of this court; and thereupon, that the defendant be at liberty to enter a common appearance, instead of putting in and perfecting special bail, pursuant to the statute in that case made and provided, upon notice of the rule being given to the plaintiff. Upon the motion of Mr. . . . .

*By the Court,*  
Rose.

***Rule for Payment of Deposit to Plaintiff.***

[*Title, &c. as above.*]

*Wednesday, the 26th day of April, 1815.* } On the motion of Mr. . . . . of counsel for the plaintiff, and reading the affidavit of C. J., it is ordered, that the defendant show cause, *on Tuesday the eighteenth day of January instant*, why the masters should not pay over to the said plaintiff the sum of 30*l.*, by the said defendant deposited and paid into court in this cause, subject to such deductions from the sum of 10*l.*, parcel of the said 30*l.*, as, on taxation by the master of the said plaintiff's costs, as well of this suit as of this application, shall by the said master, be found reasonable in this behalf, upon notice of this rule to be given to the said defendant in the meantime.

*By the Court,*  
Rose.

*Affidavit of Defendant to obtain Deposit out of Court.*

**In the Exchequer of Pleas.**

**Between**      {    **L. M. Plaintiff,**  
                              **and**  
                              {    **N. O. Defendant.**

S. P., of, [&c.] maketh oath and saith, That the said defendant, on or about the . . . day of, [&c.] was arrested by an officer of the sheriff of, [&c.] at the suit of the above-named plaintiff, by virtue of a writ of *capias* issued out of this honourable court, on the . . . day of, [&c.] ; and which said suit was indorsed for bail in the sum of . . . *l.*, and that

the said defendant thereupon, in lieu of giving bail to the said sheriff, did deposit with the officer as aforesaid, the said sum of . . . . £., together with sum of 10*l.* to answer costs pursuant to the statute in such cases made and provided ; and this deponent further saith, that the said sheriff hath paid the said several sums of money to the proper officer of this honourable court ; and this deponent further saith, that special bail has since been put in and perfected in this action [*or, that the defendant has since been duly rendered in discharge of his bail in this action.*]

*Sworn* [&c.]

S. P.

*If the affidavit be made by the defendant, it must be varied accordingly.*

*Rule for Payment of Deposit to Defendant.*

The rule for payment of the money to the defendant is similar to the above, adding, "the defendant having put in and perfected bail, upon notice of this rule to be given to the said plaintiff, or his attorney, in the meantime."

DIRECTION OF WRITS TO COUNTIES PALATINE.

*Lancaster.*

*William the Fourth*, [&c.]

To the Chancellor of our county palatine of Lancaster, or to his deputy there, greeting. We command you, that by our writ, under the seal of our said county palatine, to be duly made, and to be directed to the sheriff of the said county palatine, you command the said sheriff that, [&c.]

*Durham.*

*William the Fourth*, [&c.]

To the Reverend Father in God, . . . . . by divine permission, Lord Bishop of Durham, or to his chancellor there, greeting. We command you, that under the seal of your bishoprick, to be duly made, and directed to the sheriff of the county of Durham, you cause the said sheriff to be commanded that he take C. D., [&c.]

*Cinque Ports.*

*William the Fourth, [&c.]*

To the Constable of our Castle of Dover, or to his deputy there, greeting. We command you, [&c.]

*Berwick-upon-Tweed.*

To the Mayor and Bailiffs of our Borough of Berwick-upon-Tweed, [&c.]

CITIES AND TOWNS WHICH ARE COUNTIES OF  
THEMSELVES.

*Those which have two Sheriffs, are:—*

The City of Bristol, and County of the same city.  
The City of Coventry, and County of the same city.  
The City of Chester, and County of the same city.  
The City of Gloucester, and County of the same city.  
The City of Lincoln, and County of the same city.  
The City of London.  
The City of Norwich, and County of the same city.  
The Town of Nottingham, and County of the same town.  
The City of York, and County of the same city.  
The Borough of Carmarthen, and County of the same borough.

*Those which have one Sheriff only, are:—*

The City of Canterbury, and County of the same city.  
The City of Exeter, and County of the same city.  
The Town of Haverfordwest, and County of the same town.  
The Town of Kingston-upon-Hull, and County of the same town.  
The City of Litchfield, and County of the same city.  
The Town of Newcastle-upon-Tyne, and County of the same town.  
The Town of Poole, and County of the same town.  
The Town of Southampton, and County of the same town.  
The City of Worcester, and County of the same city.

*Supersedeas for a Prisoner on perfecting Special Bail.**George the Fourth, [&c.]*

To the Sheriff of . . . . greeting. Whereas F. F. is detained in our prison in your custody, by virtue of a certain writ of *Capias* issuing out of the Court of Exchequer at Westminster, to you directed, to answer S. S., of a plea of . . . . and because it appears to the Barons of our said Court of Exchequer, that the said F. F. hath put in and perfected special bail to the said action ; therefore we command you, if the said F. F. be detained in our prison under your custody by virtue of the said writ, and for no other cause then that, you do immediately discharge the said F. F. out of your custody, and permit him to go at large, as you will answer the contrary at your peril. Witness John Singleton Lord Lyndhurst, &c.

Issued the .. day of . . . . by rule of Court (or, by order of Mr. Baron . . . . .) made the . . . . [&c.]

*The like where Defendant was arrested by a former Sheriff.**George the Fourth, [&c.]*

To the Sheriff of [&c.] greeting. Whereas by our writ we commanded our late Sheriff, that he should omit not by reason of any liberty of your bailiwick, but that he should enter the same and take F. F. if he should be found in his bailiwick, and him safely keep until he should have given bail, or made deposit according to law, in an action [&c.] at the suit of S. S., or until the said F. F. should by other lawful means be discharged out of custody as in the said writ is more fully contained. But because the said F. F. hath since the issuing of the said writ in our said Court, before the said Barons of our said Exchequer at Westminster, put in his place G. G. his attorney, and put in and perfected special bail to answer the said S. S. in the plea aforesaid, therefore we command you, if the said F. F. be detained [&c.] (*as before*). Witness, [&c.]

Issued the . . . . day of . . . . by rule of Court . . . . . made the . . . . day of . . . . [&c.]

Rose.

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**COSTS**

**AS**

**ALLOWED ON TAXATION.**



IN THE EXCHEQUER OF PLEAS.

COSTS,

AS AT PRESENT ALLOWED ON TAXATION.

THE MASTERS' FEES.

	£	s.	d.
Writ of capias . . . . .	0	2	6
Alias writ of capias . . . . .	0	2	6
Pluries . . . . .	0	2	6
Writ of summons . . . . .	0	2	6
Alias or pluries . . . . .	0	2	6
Writ of distringas . . . . .	0	2	6
Alias or pluries . . . . .	0	2	6
Writ of detainer . . . . .	0	2	6
Subpoena for costs . . . . .	0	2	0
Attachments . . . . .	0	1	0
Scire facias . . . . .	0	4	0
Habeas corpus, excepting super cepi corpus .	0	1	0
Procedendo . . . . .	0	2	0
Supersedeas . . . . .	0	2	0
Prohibition . . . . .	0	2	0
Consultation . . . . .	0	2	0
Venire facias for a jury . . . . .	0	0	6
Distingas for a jury . . . . .	0	1	0
Mittimus into a county palatine . . . . .	0	2	0

	£	s.	d.
Subpoena ad testificandum . . . . .	0	1	0
<i>Not more than four witnesses are included in this writ.</i>			
Inquiry of damages . . . . .	0	2	0
Venditioni exponas . . . . .	0	2	0
Certiorari . . . . .	0	2	0
Restitution . . . . .	0	0	6
Signing commission to the justices of assize for trial of a cause at the assizes . . . . .	0	3	4
Signing renewed commission . . . . .	0	1	8
Signing record of Nisi Prius . . . . .	0	3	4
Signing renewed record . . . . .	0	1	8
For entering every bill, or declaration, plea, replication, rejoinder and other subsequent pleading, demurrer and joinder in demurrer, under half a roll, containing ten sheets, each sheet seventy-two words . . . . .	0	2	0
For half a roll, and under a whole roll . . . . .	0	3	4
For a whole roll, and under a roll and a half . . . . .	0	6	8
And so on for every additional half roll . . . . .	0	3	4
For every continuance or common imparlance . . . . .	0	0	6
For every special imparlance . . . . .	0	1	0
For every warrant of attorney . . . . .	0	0	8
For entering a jurata . . . . .	0	1	0
For entering every issue after imparlance . . . . .	0	2	0
For entering every suggestion on the roll, each roll . . . . .	0	6	8
For entering every challenge . . . . .	0	2	0
For entering a discontinuance or retraxit . . . . .	0	2	0
For entering a non pros, nil dicit, non sum in- formatus, or confession . . . . .	0	2	0
For entering judgment thereon, and on a scire facias . . . . .	0	2	0
For entering every deficit de recordo, or relictâ verificatione placiti . . . . .	0	2	0

# *Masters' Fees.*

5

	£	s.	d.
For entering every judgment thereon, and on demurrer . . . . .	0	2	0
For entering a postea, or inquisition . . . . .	0	2	0
For entering every judgment thereon . . . . .	0	2	0
For entering special verdict, each roll . . . . .	0	6	8
For docketing a judgment . . . . .	0	0	4
For certifying a memorial of a judgment to be entered . . . . .	0	1	0
For entering an auditâ querelâ . . . . .	0	10	0
Every judgment for plaintiffs in ejectment, trespass, assault, and false imprisonment, in addition to the fees before mentioned . . . . .	0	6	8
For acknowledging every satisfaction upon record . . . . .	0	6	8
For signing a fiat for procedendo . . . . .	0	2	0
For entering a certiorari out of chancery to certify a record . . . . .	0	6	8
For certifying the record, each roll . . . . .	0	6	8
For office copies of all matters of record, per folio . . . . .	0	0	8
For every release . . . . .	0	2	0
For enrolling a recognizance, with condition . . . . .	0	4	0
For enrolling a recognizance, without condition . . . . .	0	2	0
For enrolling all deeds, each sheet of seventy-two words . . . . .	0	0	8
For exemplifying a record, containing half a roll, or less . . . . .	0	6	8
For every other half roll . . . . .	0	6	8
For every affidavit taken by the masters or their clerk . . . . .	0	1	0
For poundage of monies taken out of court, per pound . . . . .	0	0	3
For receiving a sum of money into court and paying out same . . . . .	0	2	0
For taxing a bill of costs, according to length.			



## 6 *Clerk of the Errors' and Rules' Fees.*

	£	s.	d.
For computing principal and interest on a bill of exchange, promissory note, or other written security, under a rule of of court . .	0	3	0
For striking and reducing a special jury from the party applying for such jury . .	2	2	0
For making copies for each party of the list of forty-eight persons nominated to serve on a special jury, and of the reduced list of twenty-four for each party . .	0	5	0
For attending a trial a bar . .	1	0	0
For every exhibit read thereon . .	0	1	0

### CLERK OF THE ERRORS.

For enrolling a writ of error . . . .	0	13	4
For drawing and entering every rule in error, each sheet . . . .	0	1	4
For entry of every error assigned upon a writ of error . . . .	0	2	0
For entry of the joinder in error . . . .	0	2	0
For certifying a record upon a writ of error, each roll . . . .	0	6	8
For entry of all proceedings on writs of error per folio . . . .	0	0	4
For office copies of all proceedings when required . . . .	0	0	8
For examining transcripts of records and certifying same, per folio . . . .	0	0	8
For carrying up a transcript of record to the House of Lords. . . .	1	1	0

### CLERK OF THE RULES' FEES.

For every ordinary rule, per folio . .	0	0	8
For all rules of court, per folio . .	0	1	4

*Filazer's and Bag Bearer's Fees.* 7

	£	s.	d.
For office copies of rules . . . . .	0	0	8
For every rule for bringing up and discharging prisoners under 32 Geo. II. c. 28. . . . .	0	2	6
For every day rule for prisoners . . . . .	0	1	8
For searching for all affidavits and rules, per term . . . . .	0	0	4
For office copies of affidavits and other matters of record, per folio . . . . .	0	0	8
For filing every affidavit. . . . .	0	1	0

**FILAZER'S FEES.**

For every appearance entered in the appearance book . . . . .	0	1	0
For every appearance for other defendants after the first . . . . .	0	0	4
For every appearance entered on the roll on a cepi corpus . . . . .	0	2	0
For allowing every bail piece and filing same . . . . .	0	8	8
For taking bail piece off the file to produce in court . . . . .	0	1	0
For searching for all writs and præcipes, each term . . . . .	0	0	4
For filing every writ . . . . .	0	1	0
For filing every declaration . . . . .	0	0	4
For taking all pleadings out of the office, per folio . . . . .	0	0	4
For office copies of affidavits and other matters, per folio . . . . .	0	0	8
For searching for judgments, per term . . . . .	0	0	4
For every post term . . . . .	0	0	4

**BAG BEARER'S FEES.**

For attending the Court of Exchequer with the roll on a trial at bar . . . . .	0	5	0
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*Bag Bearer's Fees.*

	£	s.	d.
For taking down to Westminster every file of bills or writs not being of the current or preceding term . . . . .	0	1	0
For taking down a roll to Westminster . . . . .	0	1	0
For attending with any file of bills or writs from the Office of Pleas in the Exchequer Chamber, or when the Court sits in Gray's Inn Hall or elsewhere, in vacation . . . . .	0	5	0
For attending the Courts of Chancery, King's Bench, or Common Pleas, with any file of bills or writs from the Office of Pleas . . . . .	0	5	0
For attending any Court of Nisi Prius in London or Middlesex on a subpoena, with documents from the Office of Pleas . . . . .	1	1	0
For obtaining the seal of the court to every writ, commission, record of Nisi Prius, or exemplification . . . . .	0	0	2

## GENERAL RULES

## FOR PLAINTIFF.

	£	s.	d.
Writing letter before action . . .	0	3	6
Instructions and warrant to sue . . .	0	6	8
Affidavit of debt . . .	0	6	0
Attending to instruct officer, each defendant . . .	0	3	4
Copy and service of common rule . . .	0	5	0
Entering appearance sec. stat. . .	0	6	0
Every extra defendant . . .	0	0	6
Notice of requiring time to inquire after bail . . .	0	4	0
Attending to inquire after bail . . .	0	6	8
If at a considerable distance . . .	0	13	4
Attending to enter exception . . .	0	3	4
Notice thereof . . .	0	4	0
Instructions for declaration, plea, &c. . .	0	6	8
Drawing same, per folio . . .	0	1	0
Engrossing same, on parchment, ditto . . .	0	0	4
Copy to deliver, ditto . . .	0	0	4
Close copies, ditto . . .	0	0	4
Entries, every ten folios completed . . .	0	3	4
Entries, under ten folios . . .	0	2	0
Drawing short particulars of plaintiff's demand . . .	0	5	0
Drawing special particulars, per folio . . .	0	1	0
Copying same to deliver, per folio . . .	0	0	4
Attending to deliver particulars of demand . . .	0	3	4
Drawing issue, per folio . . .	0	0	8
Copy to deliver, per folio . . .	0	0	4
Close copy . . .	0	0	4
Entering and jurata when pleadings of same term . . .	0	1	0
When of different terms . . .	0	3	0

	£	s.	d.
Notice of trial . . . . .	0	4	0
Engrossing record, per folio . . . . .	0	0	6
Fee thereon . . . . .	0	6	8
Instructions for inquiry . . . . .	0	6	8
Notice of inquiry to attorney . . . . .	0	4	0
To the party . . . . .	0	5	0
Engrossing inquiry, per folio . . . . .	0	0	6
Fee thereon . . . . .	0	6	8
Instructions for brief . . . . .	0	13	4
If very long and many witnesses, from . . . . .	1	1	0
Drawing brief, per sheet . . . . .	0	6	8
Copy ditto ditto . . . . .	0	3	4
Attending trial: in country, if no other business at assizes, per diem . . . . .	2	2	0
If two causes and not more in each . . . . .	1	11	6
If more than two causes in each . . . . .	1	1	0
In a town cause . . . . .	1	1	0
Every other day cause in paper . . . . .	0	13	4
Attending withdrawing plea . . . . .	0	3	4
Attending to strike special jury . . . . .	0	13	4
Copy list of forty-eight . . . . .	0	5	0
To reduce . . . . .	0	6	8
Copy list of twenty-four . . . . .	0	2	6
Drawing and engrossing affidavits, per folio . . . . .	0	1	0
On special matters . . . . .	0	1	4
Attending court on common motion, per diem . . . . .	0	3	4
Special motions . . . . .	0	6	8
Special motions when heard . . . . .	0	13	4
Summons, common . . . . .	0	3	4
Summons, special . . . . .	0	6	8
All notices . . . . .	0	4	0

*BILLS OF COSTS according to length.*

Attending, taking not less than . . . . .	0	6	8
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***General Rules for Plaintiff.*      11**

	£	s.	d.
Term fee: town cause . . . . .	0	13	0
Country ditto under fifty miles . . . . .	0	15	0
Fifty and under one hundred miles . . . . .	0	18	0
Above one hundred miles . . . . .	1	0	0

**ISSUES IN LAW AND SPECIAL CASES.**

Drawing issues, per folio . . . . .	0	0	8
Entering a roll, ditto . . . . .	0	0	4
Copy to deliver . . . . .	0	0	4
Each copy for Baron . . . . .	0	0	4
The like special case.			

**GENERAL MATTERS.**

Entering up judgment on warrant of attorney	3	6	6
Costs of a cognovit . . . . .	0	15	0
If very long and special . . . . .	1	0	0

## CHARGES OF COMMON WRITS,

IN ALPHABETICAL ORDER.

	£	s.	d.
Attachment for costs . . . . .	0	13	6
Against a sheriff . . . . .	0	15	0
Capias writ of . . . . .	0	12	0
Returning and filing . . . . .	0	3	0
Alias and pluries . . . . .	0	12	0
Returning and filing . . . . .	0	3	0
Testatum . . . . .	0	13	0
Capias ad satisfaciendum . . . . .	0	7	0
Returning and filing . . . . .	0	3	0
Testatum . . . . .	0	7	6
Second testatum . . . . .	0	7	6
Returning and filing . . . . .	0	3	0
Special for the residue . . . . .	0	10	6
Commission to judges at Nisi Prius to try issue . . . . .	0	13	6
For every issue more than one . . . . .	0	1	0
Distringas ad respondendum . . . . .	0	12	0
Returning and filing . . . . .	0	3	0
Alias . . . . .	0	12	0
Returning and filing . . . . .	0	3	0
Pluries . . . . .	0	12	0
Returning and filing . . . . .	0	3	0
Distringas juratorum . . . . .	0	8	0
Common jury and view . . . . .	0	9	6
Special jury . . . . .	0	9	0
Special distringas, with a view . . . . .	0	10	6
Elegit, according to length, at per folio . . . . .	0	0	6
Fee thereon . . . . .	0	3	4

**General Allowance to Attornies. 13**

	£	s.	d.
Fieri facias . . . . .	0	7	0
De bonis ecclesiastics . . . . .	0	10	6
Habeas corpus (including Baron's allowance)	1	0	0
Mittimus county palatine . . . . .	0	10	6
Possession, writ of, single demise . . . . .	0	10	6
double demise . . . . .	0	12	6
each addition demise . . . . .	0	2	0
Scire facias . . . . .	0	15	0
Returning and filing . . . . .	0	3	0
Alias . . . . .	0	15	0
Returning and filing . . . . .	0	3	0
Subpoena ad testificandum . . . . .	0	7	0
Duces tecum . . . . .	0	9	0
If exceeding six folios, in addition, each	0	0	6
For costs . . . . .	0	13	6
Supersedeas . . . . .	0	12	10
<i>If more than one defendant, one shilling additional for each.</i>			
Testatum, <i>see</i> capias ad satisfaciendum.			
Veditioni exponas . . . . .	0	10	6
Venire facias jucatorum . . . . .	0	7	0

**GENERAL ALLOWANCE TO ATTORNIES.**

Attending inquiry . . . . .	0	13	4
If at a distance . . . . .	1	1	0
If engaged the whole day . . . . .	2	2	0
Travelling expenses, per mile, <i>one day</i> . . . . .	0	1	3
Attending trial in town . . . . .	1	1	0
Every day cause in the paper . . . . .	0	13	4
In the country, if no other cause, per day . . . . .	2	2	0
If two causes, and not more, each cause per day . . . . .	1	11	6
If more than two causes, each cause per day . . . . .	1	1	0
Travelling expenses, <i>one way</i> , per mile . . . . .	0	1	3



If engaged in two causes, a moiety per mile in each.

If more than two causes no mileage allowed.

USUAL ALLOWANCE TO WITNESSES

*Per day, if engaged in one cause ; if in more than one cause, expenses apportioned.*

	£	s.	d.
Common witnesses, such as labourers, and better sort of journeymen from 5 <i>s.</i> to . . .	0	7	6
Tradesmen from 10 <i>s.</i> to . . .	0	15	0
Yeoman and farmer, from 10 <i>s.</i> to . . .	0	15	0
Auctioneer, from 10 <i>s.</i> 6 <i>d.</i> . . .	1	1	0
Gentleman . . . . .	1	1	0
Esquire . . . . .	1	1	0
Professional men, from 1 <i>l.</i> 1 <i>s.</i> to . . .	3	3	0
Engineers, from 1 <i>l.</i> 1 <i>s.</i> to . . .	2	2	0
Accountants, from 10 <i>s.</i> 6 <i>d.</i> to . . .	1	1	0
Bankers . . . . .	1	1	0
Notaries . . . . .	1	1	0
Attornies . . . . .	2	2	0
Attornies' clerks, from 10 <i>s.</i> 6 <i>d.</i> to . . .	0	15	0
Females according to station in life, from 5 <i>s.</i> to . . .	1	0	0
Travelling expenses per mile <i>one way</i> . . .	0	1	0
For maps, plans, &c. from 1 <i>l.</i> 1 <i>s.</i> to . . .	3	3	0
In town causes, on subpcœnaing gentlemen, esquires, bankers, and merchants, one guinea is allowed to be given with the subpcœna, but nothing more is allowed for attending in court. Reasonable coffee-house expenses are allowed for them, about <i>five shillings per day</i> .			

ON A VIEW.

To under sheriffs, showers, and jurymen, per mile . . . . .	0	1	0
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*Counsel's Clerks. Sheriffs.* 15

	£	s.	d.
Fee to under-sheriffs . . . . .	1	1	0
If distance exceeds five miles . . . . .	2	2	0
If more than one day, per day . . . . .	1	1	0
To each shower the same as under-sheriff.			
Each common jurymen, per day . . . . .	0	5	0
Each special jurymen, per day . . . . .	1	1	0
Refreshment to each party per day . . . . .	0	5	0
To bailiffs summoning each jurymen . . . . .	0	2	6
If their residence exceed five miles, each . . . . .	0	5	0

COUNSEL.

If the case is of importance, and there are more than eight witnesses, three counsel are allowed.

Counsel is also allowed on a writ of inquiry, if notice has been given:

In such case also, briefs are allowed.

COUNSEL'S CLERKS.

Upon fees to counsel under ten guineas . . . . .	0	2	6
From ten to twenty guineas . . . . .	0	5	0
From twenty guineas upwards . . . . .	0	10	0
Senior counsel's clerk on consultation . . . . .	0	7	6
Junior counsel's clerk on ditto . . . . .	0	2	6
For attending to give documents in evidence form, from 10s. 6d. to . . . . .	1	1	0

ALLOWANCE TO SHERIFFS.

For warrant against each defendant on mesne process . . . . .	0	4	0
Caption fee within three miles of General Post Office . . . . .	0	10	6

	£	s.	d.
At a greater distance . . . . .	1	1	0
Taking a defendant to gaol <i>per mile</i> . . . . .	0	1	0
Executing a distringas in town . . . . .	0	10	6
In country . . . . .	1	1	0
On executing writ of inquiry including jury bailiff, &c. . . . .	2	2	0
Summoning a special jury and returning a distringas . . . . .	3	3	0
Striking a special jury . . . . .	2	2	0

## FEES TO COUNSEL

*On Motions, &c.*

On motion to justify or oppose bail . . . . .	0	10	6
Pursuant to a baron's order . . . . .	0	10	6
To enter up judgment on an old war- rant of attorney . . . . .	0	10	6
To pay money into court . . . . .	0	10	6
To have money out of court . . . . .	0	10	6
For special jury . . . . .	0	10	6
To make order of Nisi Prius, baron's order, or submission to arbitration, a rule of court . . . . .	0	10	6
To charge a prisoner in execution . . . . .	0	10	6
To produce record . . . . .	0	10	6
For concilium . . . . .	0	10	6
To change the venue . . . . .	0	10	6
For judgment as in case of a nonsuit . . . . .	0	10	6
For costs of the day . . . . .	0	10	6
For judgment in ejectment . . . . .	0	10	6
For security for costs . . . . .	0	10	6
For a writ of distringas . . . . .	0	10	6
Generally on common motions . . . . .	0	10	6
To enlarge rule . . . . .	1	1	0
For attachments . . . . .	1	1	0

***Length of Proceedings.*                      17**

	<i>£</i>	<i>s.</i>	<i>d.</i>
To make any rule absolute . . . . .	1	1	0
For new trial, from . . . . .	1	1	0
Generally on special motions . . . . .	1	1	0

**LENGTHS OF VARIOUS PROCEEDINGS**

*as allowed.*

Plea of general issue, folio . . . . .	2
Common replication . . . . .	2
Demurrer . . . . .	2
Joinder in demurrer . . . . .	2
Issue <i>if pleadings of same term</i> . . . . .	2
<i>If of different terms</i> . . . . .	3
If more than one issue <i>according to length</i>	
Each continuance . . . . .	1
Demurrer book, <i>beyond pleadings</i> . . . . .	2
Record <i>beyond pleadings</i> . . . . .	4
Judgment thereon <i>beyond pleadings</i> . . . . .	5
Interlocutory judgment . . . . .	3
Writ of inquiry . . . . .	3
Trial, judgment thereon . . . . .	5
If against a prisoner . . . . .	7
Final judgment on rule to compute . . . . .	5
On a retraxit . . . . .	2
On cognovit . . . . .	5
On verdict or nonsuit . . . . .	11
On judgment as in case of a nonsuit . . . . .	7
Against casual ejector . . . . .	5
Judgment of non pros . . . . .	10

## PLAINTIFF'S COSTS

FOR NOTICE OF PROCEEDINGS UNDER A STATUTE  
REQUIRING NOTICE.

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	£	s.	d.
Attending taking instructions to prepare notice	0	6	8
Drawing the notice	0	5	0
Copy to serve and copy to prove	0	2	0
If above five folios in length, drawing			
notice per folio	0	1	0
Copies to serve and prove per folio each	0	0	4
<i>If notice special or counsels fee allowed.</i>			
Attending the plaintiff reading over and settling notice	0	3	4
Service on each person	0	5	0
If at a distance 1s. per mile extra	0	1	0
Letters, messengers, &c. <i>town</i>	0	2	0
<i>country</i>	0	4	0

## COSTS OF A WRIT OF SUMMONS

*to be endorsed on writ.*

Letter before action (if written)	0	3	6
Instructions to sue	0	6	8
Writ of summons	0	12	0
Copy and service	0	5	0
<i>(If at a distance 1s. per mile extra.)</i>			
Bill of costs and attending settling	0	6	8

***Plaintiff's Costs.***

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	£	s.	d.
Letters, &c. <i>town</i> . . . . .	0	2	0
<i>country</i> . . . . .	0	4	0

*If sent to an agent, add*

Writing letter to agent . . . . .	0	3	6
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*Paid his charges according to distance.*

Agents letter in answer and postage . . . . .	0	5	6
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**COSTS OF WRIT OF DISTRESS**

*to be endorsed may be taken from the bill hereafter set out.*

**COSTS OF WRIT OF DETAINER**

*to be endorsed on writ.*

Instructions . . . . .	0	6	8
Affidavit of debt . . . . .	0	6	0
Writ of detainer . . . . .	0	12	0
Making copy writ for gaoler to serve . . . . .	0	3	0
Attending at the gaol with writ, &c. . . . .	0	5	0
Paid marshal or warden . . . . .			
Returning and filing writ by gaoler . . . . .	0	3	0
Bill of costs and attending settling . . . . .	0	6	8
Letters, &c. <i>to town cause</i> . . . . .	0	2	0
<i>country</i> . . . . .	0	4	0

**COSTS OF WRIT OF CAPIAS**

*to be endorsed on writ.*

Letter before action (if written) . . . . .	0	3	6
Instructions to sue . . . . .	0	6	8
Affidavit of debt . . . . .	0	6	0
Warrant and messenger, <i>each defendant</i> . . . . .	0	5	0
Attending to instruct officer, <i>each defendant</i> . . . . .	0	3	4

*Plaintiff's Costs.*

	£	s.	d.
Paid for arrest, ( <i>if within three miles of General Post Office</i> ) . . . . .	0	10	6
<i>if at a greater distance</i> . . . . .	1	1	0
Bill of costs and attending settling . . . . .	0	6	8
Letters, &c. <i>town</i> . . . . .	0	2	0
<i>country</i> . . . . .	0	4	0
<i>If sent to a Sheriff at a distance for warrant, add</i>			
Letter to sheriff for warrant . . . . .	0	3	6
Paid him for warrant and writing therewith and for postage . . . . .	0	9	6
<i>If sent to an agent for execution, add</i>			
Letter to agent . . . . .	0	3	6
Paid him obtaining warrant, &c. <i>according to circumstances.</i>			
Arrest . . . . .	1	1	0
Paid agent writing in answer and for postage	0	5	6

## WRIT OF SUMMONS.

Letter before action . . . . .	0	3	6
Instructions and warrant to sue . . . . .	0	6	8
Writ of summons . . . . .	0	12	0
Drawing bill of costs to endorse on writ . . . . .	0	2	0
Copy and service . . . . .	0	5	0
Affidavit thereof . . . . .	0	6	0
If sent to an agent, letter to him . . . . .	0	3	6
Paid to him for service . . . . .	0	5	0
Agents writing letter and postage . . . . .	0	5	6
If served at a distance per mile, extra . . . . .	0	1	0
Letters, &c. <i>town</i> . . . . .	0	2	0
<i>country</i> . . . . .	0	4	0

## WRIT OF CAPIAS.

Letter before action . . . . .	0	3	6
Instructions and warrant to sue . . . . .	0	6	8

*Plaintiff's Costs.*

21

	£	s	d.
Affidavit of debt . . . . .	0	6	0
Writ of capias . . . . .	0	12	0
Drawing bill of costs to endorse on writ . . . . .	0	2	0
Warrant and messenger . . . . .	0	5	0
<i>If defendant arrested in the Country,</i> <i>extra charges for agent.</i>			
Instructing officer . . . . .	0	3	4
Caption fee in town . . . . .	0	10	6
In country . . . . .	1	1	0
Searching special bail . . . . .	0	3	4
Copying bail piece . . . . .	0	3	0
Inquiring after bail, according to distance			
from 6s. 8d. to . . . . .	0	13	4
Attending to enter exception to bail . . . . .	0	3	4
Notice thereof . . . . .	0	4	0
Affidavit of service . . . . .	0	6	0
Instructions to counsel to oppose justification . . . . .	0	3	4
Fee to him . . . . .	0	10	6
Attending him . . . . .	0	3	4
Attending Court . . . . .	0	6	8
Copy rule of justification . . . . .	0	1	0
Letters, &c. . . . .	0	4	0

ON WRIT SUMMONS AND MOTION FOR A DISTINGAS.

Writing letter before action . . . . .	0	3	6
Warrant and instructions . . . . .	0	6	8
Writ of summons . . . . .	0	12	0
Drawing bill of costs to endorse on suit . . . . .	0	2	0
<i>If sent to an agent, extra as before.</i>			
Attending three several times at defendant's dwelling-house, endeavouring to serve him	0	10	0
Copy and service at the dwelling-house . . . . .	0	5	0
<i>If at a distance, extra.</i>			
Affidavit thereof according to length per folio	0	1	0



*Plaintiff's Costs.*

	£	s.	d.
Attending deponent to be sworn . . . . .	0	3	4
Paid oath . . . . .	0	1	0
Searching appearance . . . . .	0	3	4
Briefing affidavit for counsel per folio . . . . .	0	0	4
Instructions to counsel to move . . . . .	0	3	4
Fee to counsel . . . . .	0	10	6
Attending him and court . . . . .	0	6	8
Paid for rule . . . . .	0	2	8

*If in vacation, charge the usual costs of  
obtaining a baron's order instead of the  
motion in court.*

Distringas . . . . .	0	12	0
Copy for the sheriff to serve . . . . .	0	3	0
Warrant and messenger . . . . .	0	5	0
Instructing officer . . . . .	0	3	4
Paid officer distraining in town . . . . .	0	10	6
In country . . . . .	1	1	0
Drawing further bill of costs to endorse writ . . . . .	0	3	0
Attending to get distringas returned . . . . .	0	3	4
Paid returning and filing . . . . .	0	3	0
Searching appearance . . . . .	0	3	4
Attending to get distringas returned . . . . .	0	3	4
Returning and filing distringas . . . . .	0	3	0
Alias distringas . . . . .	0	12	0

*Same charges for executing same.*

Attending giving authority to sheriff to restore issues on appearance being entered . . . . .	0	3	4
Letters, &c. town . . . . .	0	3	0
country . . . . .	0	6	0

DECLARATION AND JUDGMENT BY DEFAULT IN CASE  
AND INQUIRY.

Instructions for declaration . . . . .	0	6	8
Drawing same, folio twenty . . . . .	1	0	0

*Plaintiff's Costs.*

23

	£	s.	d.
Paid pleader to settle (if special)	0	10	6
Attending him	0	3	4
Engrossing on parchment, to file	0	6	8
Paid for parchment	0	2	0
Copy to deliver, or file and paper	0	7	0
Close copy	0	6	8
Paid entries	0	6	8
Drawing short particulars of plaintiff's demand	0	5	0
Attending to deliver same	0	3	4
Rule to plead	0	1	6
Searching for and demanding plea	0	8	8
Attending summons for time	0	3	4
Copy order	0	1	0
Searching again for plea	0	3	4
Paid signing interlocutory judgment	0	2	0
Drawing judgment	0	3	4
Attending to sign	0	3	4
Entering on paper, folio twenty-three	0	7	8
Entering on roll	0	7	8
Instructions for inquiry	0	3	4
Drawing same	0	3	4
Engrossing inquiry, folio twenty-three	0	11	6
Paid for parchment	0	3	0
Paid signing and sealing	0	2	9
Fee thereon	0	6	8
Notice of inquiry	0	4	0
Attending to leave inquiry with sheriff	0	3	4
<i>Paid him for deputation</i>	1	1	0
Subpcena for witnesses	0	7	0
Copy and service of subpcena on each witness	0	5	0
Conduct money	0	1	0
<i>If attended by counsel, the same charges drawing brief, &amp;c. as on a trial.</i>			
Attending inquiry	0	13	4

	£	s.	d.
If at a distance, 1s. 3d. per mile for travelling expenses.			
If engaged a whole day . . . . .	2	2	0
Paid sheriff executing inquiry, bailiff, use of room, &c. . . . .	2	2	0
<i>If engaged a long time extra allowance.</i>			
Paid witnesses expenses (without an affidavit of increase) . . . . .	0	10	0
On affidavit of increase according to quality of witnesses and distance. <i>See general allowance to witnesses.</i>			
Attending under-sheriff for inquiry . . . . .	0	3	4
Paid returning and filing same . . . . .	0	4	4
Paid signing judgment . . . . .	0	4	8
Drawing judgment and attending to sign . . . . .	0	6	8
Paid ushers, &c. . . . .	0	3	0
Entering on roll . . . . .	0	1	8
Paid for rolls . . . . .	0	2	0
Entering judgment on paper, folio twenty-five . . . . .	0	8	4
Drawing bill of costs . . . . .	0	8	0
Copy for defendant's attorney . . . . .	0	4	0
Affidavit of increase, folio ten . . . . .	0	10	0
Paid swearing each deponent . . . . .	0	1	0
Attending them to be sworn . . . . .	0	3	4
Copy for defendant's attorney . . . . .	0	3	4
Attending, filing, and office copy . . . . .	0	10	0
Notice of taxing (in town no office copy) . . . . .	0	4	0
Paid taxing . . . . .	0	5	0
Execution . . . . .	0	7	0
Returning filing and testatum . . . . .	0	10	6
Term fee . . . . .	0	18	0
<i>If there has been a suggestion of breaches, add</i>			
Instruction for suggestion . . . . .	0	6	8
Drawing same, per folio . . . . .	0	1	0

*Plaintiff's Costs.*

25

	£	s.	d.
Copy to deliver, per folio . . . . .	0	0	4
Entering on the roll, per folio . . . . .	0	0	4
Close copy ( <i>country</i> ), per folio . . . . .	0	0	4
<i>If upon a cause for trial the same charges.</i>			

JUDGMENT IN DEBT BY DEFAULT.

Attending to sign final judgment . . . . .	0	3	4
Drawing judgment . . . . .	0	3	4
Paid . . . . .	0	4	8
Paid usher, clerk, and docket . . . . .	0	3	0
Entering proceedings on paper, folio fifteen . . . . .	0	5	0
Ditto on the roll ditto . . . . .	0	5	0
Paid for roll . . . . .	0	1	0
Bill of costs, &c. . . . .	0	6	0
Copy for defendant's attorney . . . . .	0	3	0
Appointment to tax . . . . .	0	4	0
Attending taxing . . . . .	0	6	8
Paid taxing . . . . .	0	4	0
Term fee . . . . .	0	18	0

IF DEBT ABOVE TWENTY POUNDS,

*Charge*

For instructions, drawing, and engrossing declaration if under twenty-four folios . . . . .	1	18	0
Close copy, <i>in country causes</i> . . . . .			
Paid entering, <i>according to length</i> .			
For rule to plead, searching, and demanding plea, drawing judgment, entering on roll, and attending to sign judgment . . . . .	1	11	4
Paid signing judgment . . . . .	0	2	0

## COGNOVIT.

	£	s.	d.
<i>See costs of writ, declaration, rule to plead, &amp;c.</i>			
Attending on terms of compromise, drawing cognovit, and attending execution	0	13	4
Entering appearance for defendant	0	6	0
Entering retraxit and fee (after plea)	0	5	4
Drawing judgment on cognovit	0	3	4
Attending to sign judgment	0	3	4
Paid signing	0	4	0
Paid ushers, clerk, and docket	0	3	0
Entering on roll, folio twenty-five	0	8	4
Paid for two rolls	0	2	0
Entering proceedings on paper, ditto	0	8	4
Bill of costs	0	5	0
Copy for defendant's attorney	0	2	6
Appointment to tax	0	4	0
Attending taxing	0	6	8
Paid the master	0	3	0
Execution	0	7	0
Filing and testatum	0	10	6
Term fee	0	18	0

ON GENERAL ISSUE OR SPECIAL PLEAS, AND TRIAL AT  
THE ASSIZES, VERDICT FOR PLAINTIFF.*After searching for plea*

Copy general issue	0	1	0
Or, Copy plea, say folio twenty	0	6	8
Drawing and engrossing case for the opinion of counsel ( <i>if necessary</i> ) to advise on evi- dence, &c. or according to length	1	0	0
Fee to counsel ( <i>on special pleader</i> )			

*Plaintiff's Costs.*

27

	£	s.	d.
Attending him with and for same . . . . .	0	6	8
Copy opinion (if for the country) <i>or according to length</i> . . . . .	0	2	0
Instructions for replication . . . . .	0	6	8
Drawing same, folio twenty . . . . .	1	0	0
Paid special pleader to settle . . . . .	0	15	0
Attending him . . . . .	0	3	4
Copy to deliver . . . . .	0	6	8
Close copy . . . . .	0	6	8
Paid entering . . . . .	0	6	8
Paid counsel's fee, signing . . . . .	0	10	6
Attending . . . . .	0	3	4
Rule to rejoin . . . . .	0	1	6
Searching for and demanding rejoinder . . . . .	0	8	8
Attending summons for time to rejoin . . . . .	0	4	4
Searching again for rejoinder . . . . .	0	3	4
Copy rejoinder, folio ten . . . . .	0	3	4
Instructions for surrejoinder . . . . .	0	6	8
Drawing same, folio five . . . . .	0	5	0
Fee to pleader to settle . . . . .	0	5	0
Attending him . . . . .	0	3	4
Copy to deliver . . . . .	0	1	8
Close copy . . . . .	0	1	8
Drawing issue, folio eighty-seven . . . . .	2	18	0
<i>Say, Declaration</i> , folio . . . . .	30		
<i>Plea</i> , folio . . . . .	20		
<i>Replication</i> , folio . . . . .	20		
<i>Rejoinder</i> , folio . . . . .	10		
<i>Surrejoinder</i> , folio . . . . .	5		
<i>Issue</i> , folio . . . . .	2		

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Folios 87

Copy to deliver . . . . .	1	9	0
Close copy . . . . .	1	9	0
Entering on roll . . . . .	1	9	0

	£	s.	d.
Fiat jurata (if pleadings are all of same term)	0	1	0
<i>If of different terms</i>	0	3	0
Notice of trial	0	4	0
Drawing record	0	3	4
Engrossing same, folio ninety-one	2	5	6
Paid for parchment	0	10	0
Paid signing and sealing	0	4	3
Fee thereon	0	6	8
Copy particulars to annex, or according to length	0	2	0
The like of defendants set-off, if any, or according to length	0	2	0
Carriage of record into the country	0	4	0
Venire and fee	0	7	0
Paid returning same	0	4	0
Attending to get same returned	0	3	4
Distringas	0	8	0
Instructions for brief	0	13	4
<i>If very long and many witnesses</i>	1	1	0
Drawing same, twenty sheets	6	13	4
Two copies for counsel	6	13	4
Paid returning distringas	0	14	0
Paid entering cause	1	1	0
Fee senior counsel with brief	7	7	0
Paid his clerk	0	2	6
Attending him	0	6	8
Fee to junior counsel and clerk	5	7	6
Attending him	0	6	8
Attending Court per day, and no other business, and if attorney lives at a distance from the assizes, per day	2	2	0
<i>If two causes and not more in each</i>	1	11	6
<i>If more than two causes in each</i>	1	1	0
<i>If residing in the assize town, per day before trial</i>	0	13	4

*Plaintiff's Costs.*

29

	£	s.	d.
Attending trial . . . . .	1	1	0
If very long . . . . .	2	2	0
Paid Court fees as sworn to . . . . .	4	10	0
Attorney's travelling expenses, twenty miles	1	5	0
<i>If attending in two causes only</i> . . . . .	0	12	6
Paid for certificate for early judgment . . . . .	0	6	6
Attending for same . . . . .	0	3	4
Paid witnesses expenses . . . . .			
Term fee . . . . .	0	18	0

SUBSEQUENT TERM.

Attending for postea . . . . .	0	3	4
Paid returning and filing same . . . . .	0	4	4
Paid signing judgment . . . . .	0	4	8
Drawing judgment . . . . .	0	3	4
Attending to sign judgment . . . . .	0	3	4
Paid ushers, clerk, and docket . . . . .	0	3	0
Entering proceedings on paper, folio ninety-five . . . . .	1	11	8
Entering judgment on roll, folio eleven . . . . .	0	3	8
Paid for five rolls . . . . .	0	5	0
Drawing and engrossing affidavit of increase, folio twenty . . . . .	1	0	0
Paid swearing each deponent . . . . .	0	1	0
Attending them to be sworn . . . . .	0	3	4
Paid filing affidavit . . . . .	0	1	0
Attending to file same . . . . .	0	3	4
Paid for office copy . . . . .	0	13	4
Copy for defendant's attorney . . . . .	0	6	8
Carriage of briefs if to town . . . . .	0	4	0
Drawing bill of costs, and copy . . . . .	0	12	0
Copy for defendant's attorney . . . . .	0	6	0
Notice of taxing . . . . .	0	4	0
Attending taxing . . . . .	0	6	8



*Plaintiff's Costs.*

	£	s.	d.
Paid the master . . . . .	0	5	0
Execution . . . . .	0	7	0
Returning filing and testatum . . . . .	0	10	6
Term fee . . . . .	0	18	0

*N. B.—In causes of difficulty and importance, retainers and consultation fees allowed.*

## IN A TOWN CAUSE.

Attending to get venire and distringas returned . . . . .	0	3	4
Paid returning . . . . .	0	14	0
Attending to enter cause . . . . .	0	3	4
Paid . . . . .	0	17	0
Attending Court every day before trial . . . . .	0	13	4
On trial . . . . .	1	1	0
<i>If the trial is very long</i> . . . . .	2	2	0
Term fee . . . . .	0	13	0

## JUDGMENT RECOVERED.

Searching for plea . . . . .	0	3	4
Copy, plea, judgment recovered, folio five . . . . .	0	1	8
Instruction for replication . . . . .	0	6	8
Drawing same, folio four . . . . .	0	4	0
Copy to deliver . . . . .	0	1	4
Close copy . . . . .	0	1	4
Paid entering . . . . .	0	2	0
Drawing issue, folio thirty-one . . . . .	1	0	8
Copy to deliver, per folio . . . . .	0	10	4
Close copy . . . . .	0	10	4
Entering on roll, per folio . . . . .	0	10	4
Instructions to counsel to move to produce record . . . . .	0	3	4
Paid entering . . . . .	0	2	0
Fee to him . . . . .	0	10	6

*Plaintiff's Costs.*

31

	£	s.	d.
Attending him . . . . .	0	3	4
Attending Court . . . . .	0	3	4
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	4	0
Paid bag bearer carrying roll to Westminster	0	1	0
Attending Court record not produced . . . . .	0	6	8

*Signing Judgment as in other Cases.*

*Or, to save the expense of motion, defendant's attorney may give notice that he withdraws plea in which case,*

Attending on plea being withdrawn . . . . .	0	3	4
Paid masters' fee on retraxit . . . . .	0	2	0

*Signing Judgment as in other Cases.*

PLEA OF SATISFACTION AND DEMURRER TO  
REPLICATION.

Searching for plea . . . . .	0	3	4
Copy plea of satisfaction, folio four . . . . .	0	1	4
Instructions for replication . . . . .	0	6	8
Drawing same, folio three . . . . .	0	3	0
Copy to deliver . . . . .	0	1	0
Close copy . . . . .	0	1	0
Paid entering . . . . .	0	2	0
Drawing issue, folio thirty-one . . . . .	1	0	8
Copy to deliver . . . . .	0	10	4
Close copy . . . . .	0	10	4
Entering on roll . . . . .	0	10	4
Searching for demurrer . . . . .	0	3	4
Copy demurrer, folio two . . . . .	0	0	8
Instructions for joinder . . . . .	0	6	8
Drawing same, folio two . . . . .	0	2	0
Copy to deliver . . . . .	0	0	8
Close copy . . . . .	0	0	8
Paid entering . . . . .	0	2	0

	£	s.	d.
Fee counsel to sign . . . . .	0	10	6
Attending . . . . .	0	3	4
Drawing demurrer book, folio thirty-six . . . . .	1	4	0
Copy to deliver . . . . .	0	12	0
Close copy . . . . .	0	12	0
Entering on roll . . . . .	0	12	0
Making two copies demurrer books for Barons . . . . .	1	4	0
Attending to leave copies with the Barons' clerks . . . . .	0	6	8
Paid Barons' clerks . . . . .	0	5	0
Instructions to counsel to move for concilium . . . . .	0	3	4
Fee to him . . . . .	0	10	6
Attending him . . . . .	0	3	4
Attending Court . . . . .	0	3	4
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	4	0
Attending defendant's attorney when pleadings withdrawn . . . . .	0	3	4
Paid entering retraxit . . . . .	0	2	0
Fee thereon . . . . .	0	3	4
<i>If argued, add</i>			
Fee to counsel drawing marginal notes . . . . .	1	3	6
Instructions to him . . . . .	0	3	4
Attending him . . . . .	0	3	4
Making copies of notes on the Barons' copies . . . . .	0	6	8
Copy demurrer book for counsel . . . . .	0	12	0
Making copies of marginal notes for counsel . . . . .	0	3	4
Instructions to counsel to argue . . . . .	0	6	8
Paid for to counsel and clerk . . . . .	2	4	6
Attending him . . . . .	0	6	8
Attending Court on argument . . . . .	0	13	4
Or each day, in paper, before argument . . . . .	0	6	8
Paid ushers . . . . .	0	4	0

*Signing Judgment as in other Cases.*

**BILL AGAINST A PRISONER IN COUNTRY GAOL ON  
VERDICT FOR PLAINTIFF.**

*Vacation.*

	£	s.	d.
Instructions and warrant to sue	0	6	8
Affidavit of debt	0	6	0
Writ of capias	0	12	0
Warrant and messenger	0	5	0
Instructing officer	0	3	4
Caption fee	1	1	0
Paid taking defendant to gaol <i>according to distance,</i> <i>One Shilling per Mile.</i>			
Letters, &c.	0	4	0

*Term.*

Searching special bail	0	3	4
Instructions for declaration	0	6	8
Drawing same, folio twenty	1	0	0
Engrossing on parchment	0	10	0
Paid for parchment	0	2	6
Copy to serve on defendant	0	6	8
Ditto to file	0	6	8
Letter to correspondent therewith	0	3	6
Service of declaration on gaoler and paid	0	6	0
Agent's fee and letters	0	5	4
Affidavit of service	0	6	0
Attending filing declaration and affidavit	0	3	4
Paid filing	0	1	0
Paid entering declaration	0	6	8
Close copy declaration	0	6	8

*Costs of Issue, Trial, &c. as in other Cases.*

CHARGING A PRISONER IN THE KING'S BENCH IN  
EXECUTION IN THIS COURT.

	£	s.	d.
Habeas corpus ad satisfaciendum . . . . .	0	15	0
Paid Baron for allowance . . . . .	0	4	0
<i>The following fees, between crotchets, are not allowed as between Party and Party.</i>			
[Attending to get same allowed . . . . .	0	3	4
Attending to get habeas corpus returned by the marshal . . . . .	0	3	4
Paid returning . . . . .	0	9	4
Attending tipstaff to appoint him to be in readiness . . . . .	0	3	4
Instructions to counsel to move to charge defendant in execution . . . . .	0	3	4
Fee to him . . . . .	0	10	6
Attending him . . . . .	0	3	4
Attending Court . . . . .	0	3	4
Paid bag bearer with roll . . . . .	0	1	0
Paid warden's fee . . . . .	0	10	6
Paid tipstaff . . . . .	0	18	4
Rule for commitment . . . . .	0	5	4
Attending serving same at the Fleet . . . . .	0	3	4
Copy to keep . . . . .	0	2	6
Paid entering rule at the Fleet . . . . .	0	2	6
Paid filing habeas and return . . . . .	0	1	0
Entering commitment on the roll . . . . .	0	1	4]

ATTACHMENT AGAINST THE SHERIFF FOR NOT BRINGING  
IN THE BODY.

*Costs of Writ, &c. as before.*

Side bar motion for rule to return writ . . . . .	0	3	4
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*Plaintiff's Costs.*

35

	£	s.	d.
Paid for rule . . . . .	0	1	4
Copy and service . . . . .	0	5	0
Affidavit thereof and paid oath . . . . .	0	6	0
Paid filing and attending . . . . .	0	4	4
Paid returning and filing writ of capias . . . . .	0	3	0

*(If the sheriff has been ruled pursuant to  
a Baron's order, the costs must be va-  
ried accordingly.)*

Side-bar motion for rule to bring in the body	0	3	4
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	5	0
Affidavit of service and paid oath . . . . .	0	6	0
Paid filing . . . . .	0	1	0
Attending searching if special bail piece filed	0	3	4
Affidavit of no bail put in and paid oath . . . . .	0	6	0
Instructions to counsel to move for attach- ment . . . . .	0	3	4
Fee to counsel to move . . . . .	1	3	6
Attending him . . . . .	0	3	4
Attending court rule granted . . . . .	0	6	8
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	5	0
Attachment and fee . . . . .	0	12	6
Attending lodging same with coroner . . . . .	0	6	8
Drawing bill of costs and copy . . . . .	0	5	0
Copy for sheriff . . . . .	0	2	6
Appointment to tax . . . . .	0	4	0
Attending taxing . . . . .	0	6	8
Paid taxing . . . . .	0	4	0
Attending sheriff receiving and settling debt and costs . . . . .	0	6	8
Term fee . . . . .	0	13	0
Paid coroner's fee, in <i>Middlesex</i> . . . . .	2	4	6
<i>Elsewhere</i> . . . . .	1	3	6

## ASSIGNMENT OF BAIL BOND.

	£	s.	d.
Special bail not being put in, attending perusing bail bond . . . . .	0	3	4
Inquiring after bail . . . . .	0	6	8
Paid sheriff for assignment . . . . .	0	8	0
Fee thereon and attending for same . . . . .	0	3	4
Warrant and instructions to use . . . . .	0	6	8
Writ of summons . . . . .	0	12	0
Three copies and service . . . . .	0	15	0
Affidavit of service . . . . .	0	6	0
Searching appearance . . . . .	0	3	4

*The remaining Costs as in other Cases.*

## TAKING MONEY OUT OF COURT.

Copy rule to pay money into Court . . . . .	0	2	0
Attending for office copy same . . . . .	0	3	4
Paid for office copy . . . . .	0	2	8
Attending to take money out of Court . . . . .	0	6	8
Paid poundage, <i>threepence</i> per pound.			
Paid for receipt stamp.			
Paid masters receiving and paying out . . . . .	0	2	0

## DISCONTINUANCE.

Side-bar motion for rule to discontinue . . . . .	0	3	4
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	3	0
Appointment to tax . . . . .	0	4	0
Attending taxing . . . . .	0	6	8
Paid taxing . . . . .	0	2	0

**SPECIAL JURY.**

	£	s.	d.
Instructions to move for special jury . . . . .	0	3	4
Fee to counsel to move . . . . .	0	10	6
Attending him . . . . .	0	3	4
Paid for rule . . . . .	0	2	8
Copy and service with Master's appointment on sheriff . . . . .	0	5	0
The like on defendant's or plaintiff's attorney	0	5	0
Paid Master naming forty-eight . . . . .	2	2	0
Paid sheriff attending with list . . . . .	2	2	0
Attending naming forty-eight . . . . .	0	13	4
Paid for list . . . . .	0	5	0
Copy for the country . . . . .	0	5	0
Attending inquiring after the special jury and instructions to reduce . . . . .	0	6	8
Appointment to reduce . . . . .	0	4	0
Attending to reduce . . . . .	0	6	8
Copy list of twenty-four . . . . .	0	2	6
Ditto for the country . . . . .	0	2	6
Special distringas . . . . .	0	9	0
Paid sheriff summoning special jury and re- turning distringas . . . . .	3	3	0
Paid special jury on trial, each . . . . .	1	1	0
Each talesman . . . . .	0	10	6

**VIEW.**

Attending for rule for view . . . . .	0	3	4
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	5	0
Close copy . . . . .	0	2	6
Attending defendant's attorney, appointing a			



	£	s.	d.
shower, and time and place for viewers to meet . . . . .	0	6	8
Distringas for special jury and view . . . . .	0	10	0
Paid sheriff summoning jury on view . . . . .			
Paid six special jurors attending the view . . . . .	6	6	0
Paid shower his fee . . . . .	1	1	0
Paid under-sheriff . . . . .	1	1	0
Solicitor's attendance . . . . .	1	1	0
Paid half the expenses, and the execution.			
Extra charges summoning jury, and for attendance of jury on the view.			

## GENERAL ISSUE AND NOTICE OF SET-OFF.

Searching plea . . . . .	0	6	8
Copy plea and notice of set-off, folio ten . . . . .	0	3	4
Close copy . . . . .	0	3	4
Summons for particulars of set-off . . . . .	0	2	0
Copy and service . . . . .	0	3	0
Attending . . . . .	0	3	4
Paid for order . . . . .	0	2	0
Copy and service . . . . .	0	3	0

## SCIRE FACIAS TO REVIVE A JUDGMENT.

Instructions to revive judgment, searching for docket, taking extract, and paid . . . . .	0	7	8
Drawing and engrossing scire facias to revive judgment, signing, sealing, and fee . . . . .	1	0	0
Paid warrant thereon and attending . . . . .	0	5	10
Attending lodging same at sheriff's office . . . . .	0	3	4
Paid returning and filing same . . . . .	0	3	0
Attending to get same returned . . . . .	0	3	4
Searching appearance . . . . .	0	3	4
Drawing affidavit to move for judgment, per folio, according to length . . . . .	0	1	0

*Plaintiff's Costs.*

39

	£	s.	d.
Attending to be sworn and paid . . . . .	0	4	4
Briefing affidavit for counsel, per folio . . . . .	0	0	4
Instructions to counsel to move for leave to enter up judgment on sci. fa. . . . .	0	3	4
Fee to him . . . . .	0	10	6
Attending him and Court . . . . .	0	6	8
Paid for rule . . . . .	0	2	8

*If the order is obtained upon a summons, the costs must be varied accordingly.*

Drawing judgment . . . . .	0	3	4
Attending to sign same . . . . .	0	3	4
Paid on signing . . . . .	0	4	8
Entering proceedings on paper, folio ten . . . . .	0	3	4
Entering same on the roll, folio ten . . . . .	0	3	4
Paid for roll . . . . .	0	1	0
Bill of costs and copy . . . . .	0	4	0
Attending taxing . . . . .	0	6	8
Paid taxing . . . . .	0	2	0
Term fee . . . . .	0	15	0

SCIRE FACIAS AGAINST BAIL.

*Costs original action ; then add,*

Capias ad satisfaciendum . . . . .	0	7	0
Attending at the sheriff's office lodging ca. sa. . . . .	0	3	4
Attending again for return . . . . .	0	3	4
Paid . . . . .	0	3	0
Drawing recognizance of bail, folio six . . . . .	0	6	0
Entering on the roll . . . . .	0	2	0
Filing record . . . . .	0	1	0
Warrant and instructions to proceed against bail . . . . .	0	6	8
Drawing and engrossing scire facias, signing, sealing, and fee . . . . .	1	0	0

### EJECTMENT AND JUDGMENT BY DEFAULT.

Instructions and warrant to sue	0	6	8
Perusing deeds and abstracting parcels	0	13	4
Appearance for casual ejector and fee	0	6	0
Instructions for declaration	0	6	8

*Plaintiff's Costs.*

41

	£	s.	d.
Drawing same against casual ejector, folio ten	0	10	0
Engrossing same	0	3	4
Paid entering	0	3	4
Two copies to serve	0	6	10
Service on two defendants	0	10	0
Affidavits thereof	0	6	0
Copy declaration to annex to affidavit	0	3	4
Term fee	0	18	0

## SUBSEQUENT TERM.

Engrossing declaration on parchment to file	0	4	4
Filing declaration and affidavit of service, and paid	0	4	4
Making copy to keep	0	4	0
Instructions to move for judgment against casual ejector	0	3	4
Fee to counsel to move	0	10	6
Attending him and Court	0	6	8
Paid for rule	0	2	8
Searching for appearance	0	3	4
Drawing judgment	0	3	4
Attending to sign same	0	3	4
Paid signing	0	4	8
Usher's clerk and docket	0	3	0
Paid king's fine	0	6	8
Entering proceedings on paper, folio eleven	0	3	8
Entering same on roll	0	3	8
Paid for roll	0	3	0
Writ of possession on a single demise	0	10	6
If a double demise	0	12	6
Term fee	0	18	0

## ON TRIAL AND VERDICT.

*Same costs as last bill, down to rule for judgment  
against casual ejector.*

	£	s.	d.
Searching appearance . . . . .	0	3	4
Copy general issue . . . . .	0	1	0
Paid entering declaration and plea . . . . .	0	4	0
Drawing issue, folio eight . . . . .	0	5	4
Copy to deliver . . . . .	0	2	8
Close copy . . . . .	0	2	8
Paid entering and jurata . . . . .	0	3	0
Entering on roll . . . . .	0	2	8
Notice of trial . . . . .	0	4	0
Rule to confess lease, entry, and ouster . . . . .	0	5	0
Attending to sign same . . . . .	0	3	4

*Costs of record, trial, and judgment, as  
in other cases.*

ON MOTION FOR JUDGMENT AGAINST CASUAL EJECTOR,  
WHERE DEFENDANT ABSCONDS.

Drawing special affidavit of service, folio ten	0	10	0
Filing same, and attending . . . . .	0	4	4
Office copy . . . . .	0	6	8
Instructions to counsel to move for a rule to show cause why the service on the premises should not be deemed good service. . . . .	0	3	4
Paid fee to him . . . . .	0	10	6
Attending him . . . . .	0	3	4
Attending Court, when rule to show cause granted . . . . .	0	3	4
Copy and service of rule, by sticking up same on door of premises in question . . . . .	0	5	0

*Plaintiff's Costs.*

43

	£	s.	d.
The like in the Exchequer Office . . . . .	0	5	0
Affidavit thereof . . . . .	0	6	0
Paid filing . . . . .	0	1	0
Instructions to counsel to make rule absolute	0	3	4
Fee to him . . . . .	1	3	6
Attending him . . . . .	0	3	4
Attending Court, rule granted . . . . .	0	6	8
Paid for rule . . . . .	0	2	8
Instructions to counsel to move for judgment against casual ejector, and <i>The other costs as before.</i>			

ON NONSUIT, FOR NOT CONFESSING LEASE, ENTRY, AND  
OUSTER.

*Same costs on trial as before.*

Drawing affidavit, that defendant did not ap- pear on the trial . . . . .	0	6	0
Paid filing and attending . . . . .	0	4	4
Office copy . . . . .	0	3	0
Instructions to counsel to move for leave to enter up judgment pursuant to consent rule	0	3	4
Fee to counsel to move . . . . .	0	10	6
Attending him . . . . .	0	3	4
Attending Court . . . . .	0	3	4
Paid for rule . . . . .	0	2	8
Paid signing judgment as in other cases.			

ENTERING UP JUDGMENT ON OLD WARRANT OF  
ATTORNEY IN TERM.

Instructions for special affidavit . . . . .	0	6	8
Drawing and engrossing same, folio twelve . . . . .	0	12	0
Paid two oaths . . . . .	0	2	0
Paid filing . . . . .	0	1	0

*Plaintiff's Costs.*

	£	s.	d.
Attending . . . . .	0	3	4
Paid for office copy . . . . .	0	8	0
Briefing same for counsel . . . . .	0	4	0
Instructions to counsel . . . . .	0	3	4
Fee to counsel to move . . . . .	0	10	6
Attending him . . . . .	0	3	4
Attending Court . . . . .	0	3	4
Paid for rule . . . . .	0	2	8
Common costs, entering up judgment	3	6	6
Drawing bill of costs, and copy . . . . .	0	4	0
Attending taxing . . . . .	0	6	8
Paid the master . . . . .	0	2	0
Letters, &c. . . . .	0	4	0

## IN VACATION.

Instructions for special affidavit . . . . .	0	6	8
Drawing and engrossing same, folio twelve . . . . .	0	12	0
Paid two oaths . . . . .	0	2	0
Paid filing and attending . . . . .	0	4	4
Paid for office copy . . . . .	0	8	0
Attending Baron's chambers for order to enter up judgment . . . . .	0	3	4
Paid for same . . . . .	0	4	0
Filing same . . . . .	0	1	0
Copy to keep . . . . .	0	1	0
Entering up judgment . . . . .	3	6	6
Bill of costs and copy . . . . .	0	4	0
Attending taxing . . . . .	0	6	8
Paid taxing . . . . .	0	2	0
Letters, &c. . . . .	0	4	0

## ACKNOWLEDGING SATISFACTION.

Instructions to acknowledge satisfaction . . . . .	0	6	8
Searehing for record and paid . . . . .	0	4	4

*Plaintiff's Costs.*

45

	£	s.	d.
Drawing entry of satisfaction, folio five . . . . .	0	5	0
Entering on record . . . . .	0	2	6
Paid entering . . . . .	0	2	0
Attorney's fee thereon . . . . .	0	6	8
Letters, &c. . . . .	0	4	0

**MOTION FOR NEW TRIAL.**

Instructions to senior counsel to move for new trial . . . . .	0	6	8
Fee to him . . . . .			
Attending him . . . . .	0	3	4
Attending Court, rule to show cause granted	0	6	8
Paid for rule . . . . .	0	2	8
Copy, and service on opposite attorney . . . . .	0	5	0
Affidavit of service . . . . .	0	6	0
Service of rule on associate . . . . .	0	5	0
Attending judge's clerk to bespeak notes to be in Court . . . . .	0	3	4
Paid for same . . . . .	0	10	0
Instructions to senior counsel to make rule absolute . . . . .	0	6	8
Fee to him . . . . .			
Attending him . . . . .	0	3	4
The like charges to junior counsel . . . . .			
Attending Court each paper day . . . . .	0	6	8
The like when rule argued . . . . .	0	13	4
Paid for rule absolute . . . . .	0	2	8
Copy and service on opposite attorney . . . . .	0	5	0
The like on associate . . . . .	0	5	0

*The usual charges for affidavits if moved thereon.*

*The above precedent will apply to most motions in common matters.*



## REPASSING A RECORD, &amp;c.

	£	s.	d.
Each continuance and fee . . . . .	0	3	10
Attending associate, or marshal for record . . . . .	0	3	4
Altering record . . . . .	0	6	8
Adding two continuances to record . . . . .	0	1	0
The like on roll . . . . .	0	0	8
Paid resigning and resealing . . . . .	0	2	5
Altering and renewing venire . . . . .	0	3	4
Paid resigning and resealing venire . . . . .	0	1	3
Paid returning venire . . . . .	0	3	6
Attending to get same returned . . . . .	0	3	4
Altering and renewing commission . . . . .	0	3	4
Paid resealing and resigning same . . . . .	0	4	2
Altering and renewing distringas . . . . .	0	3	4
Paid resigning and resealing same . . . . .	0	1	9
Altering and resealing subpcena ad test. . . . .	0	4	1

## COUNTY PALATINE CHARGES.

Mandate, &c. on a writ of capias to Lancaster, one defendant . . . . .	1	11	10
For every additional defendant . . . . .	0	6	8
Mandate, &c. on executions . . . . .	2	0	11
For each additional defendant . . . . .	0	6	8

## ON INQUIRY.

Paid chancellor's mandate, add three folios to the inquiry, and for the whole, per folio, besides parchment as under . . . . .			
Cursitor, per folio . . . . .	0	0	4
Parchment, according to length, about . . . . .	0	6	0
Fee thereon . . . . .	0	5	0
Seal keeper's charges . . . . .	0	5	6

*Plaintiff's Costs.*

47

	£	s.	d.
Fee on mandate, not exceeding fifteen folios,			
add to the money paid . . .	0	13	4
Above fifteen folios, and under twenty-five . . .	0	16	8
Above twenty-five folios . . .	1	0	0
And for every twenty folios in addition . . .	0	3	4
Attending executing inquiry . . .	1	1	0
Paid sheriff, jury, and bailiff . . .	1	2	4
Sheriff's inquisition, and attending . . .	0	5	0
Swearing every witness, or exhibit . . .	0	1	0
Return of inquiry, and fee . . .	0	7	0
Filing sheriff's return . . .	0	3	4
Chancellor's return . . .	0	10	0

ON ASSIGNMENT OF BAIL BOND.

Postage of bail bond to Preston . . .	0	0	8
Sheriff's return to writ . . .	0	7	0
Fee on filing . . .	0	3	4
Paid for assignment . . .	0	7	0
Writing to London with bond . . .	0	3	6

At Durham the charges are something more.

## GENERAL RULES

## FOR DEFENDANTS.

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	£	s.	d.
Instructions and warrant to defend . . .	0	6	8
Entering appearance . . . . .	0	6	0
Every extra defendant . . . . .	0	0	6
Searching præcipe, and giving notice . . .	0	3	4
Attending putting in bail in town . . .	0	6	8
Searching præcipe, and giving notice . . .	0	3	4
Attending Baron for allowance . . .	0	3	4
Paid Baron's allowing . . . . .	0	11	0
Copy notice of exception . . . . .	0	1	0
Notice of justification . . . . .	0	4	0
Affidavit of service . . . . .	0	6	0
Instructions for affidavit of property of bail . . . . .	0	6	8
Drawing and engrossing same, per folio .	0	1	0
Attending to get bail sworn . . . . .	0	3	4
Paid oaths . . . . .			
Copy for plaintiff's attorney, per folio .	0	0	4
Instructions to counsel to justify . . .	0	3	4
Copy notice to annex . . . . .	0	1	0
Attending counsel with brief . . . . .	0	3	4
Attending Court on justification . . .	0	6	8
The like, added bail . . . . .	0	6	8
Filing bail piece . . . . .	0	8	4
Fee thereon . . . . .	0	6	8
Office copy, declaration, per folio . . .	0	0	4
Close copy . . . . .	0	0	4

*General Rules for Defendants.*

49

	£	s.	d.
Instructions for plea, rejoinder, &c.	0	6	8
Drawing special pleadings, per folio	0	1	0
Copies to deliver ditto	0	0	4
Close copies	0	0	4
Entries, per folio	0	0	4
Drawing abstract of pleas	0	3	4
Summons for leave to plead several matters	0	2	0
Copy and service	0	3	0
Attending for order	0	3	4
<i>If any opposition</i>	0	6	8
Paid for order	0	2	0
Copy and service	0	3	0
Attending to draw up rule	0	3	4
Paid for rule			
Copy and service	0	5	0
General issue and paid entering	0	4	8
Attending a summons	0	3	4
<i>If opposed</i>	0	6	8
Attending to draw up special rules	0	3	4
Copies and service of common rules	0	5	0
Instructions for special affidavits	0	6	8
Drawing same, per folio	0	1	0
Engrossing same, per folio	0	0	4
Attending deponents to be sworn	0	3	4
Searching and demanding replication, &c.	0	8	8
Copy notice of trial	0	1	0
Copy issue, per folio	0	0	4
Drawing particulars of set-off ( <i>common</i> )	0	5	0
Attending to deliver particulars	0	3	4
Instructions for briefs, <i>from</i>	0	13	4
Searching if cause set down	0	3	4
Searching from time to time how cause stands	0	6	8
Attending Court in town, cause in paper	0	13	4
Ditto on trial	1	1	0

*d*

**50      *General Rules for Defendants.***

	£	s.	d.
Attending at the assizes each day, if in two causes and not more, ( <i>each</i> ) . . . . .	1	11	6
If only one . . . . .	2	2	0
If more than two ( <i>in each</i> ) . . . . .	1	1	0
Travelling expenses, if only one cause 1s. 3d. per mile, one way			
<i>If in two causes, only half.</i>			

DEFENDANT'S COSTS.

ON SUMMONS TO STAY PROCEEDINGS.

	£	s.	d.
Attending taking instructions to settle . . .	0	3	4
Paid for summons to stay proceedings . . .	0	2	0
Copy and service . . . . .	0	3	0
Attending . . . . .	0	3	4
Paid for order . . . . .	0	2	0
Copy and service . . . . .	0	3	0
Copy plaintiff's bill of costs, according to length.			
Appointment to tax copy and service . . .	0	4	0
Attending taxing . . . . .	0	6	8
Attending settling debt and costs, and taking receipt . . . . .	0	3	4
Letters, &c. <i>country</i> . . . . .	0	4	0
<i>town</i> . . . . .	0	2	0

ON APPEARANCE.

Instructions and warrant to defend . . .	0	6	8
Searching præcipe and giving notice . . .	0	3	4
Entering appearance for defendant, and paid	0	6	0
Searching for declaration . . . . .	0	3	4
Letters, &c. <i>country</i> . . . . .	0	4	0
<i>town</i> . . . . .	0	2	0

*d 2*

## ON SPECIAL BAIL IN TOWN.

	£	s.	d.
Instructions and warrant to defend . . .	0	6	8
Attending for extract of writ, and paid . . .	0	4	4
Paid for bail bond, &c. . . . .	1	1	0
Special bail piece and filling up . . . . .	0	4	0
Attending to appoint bail, and afterwards attending at Baron's chambers . . . . .	0	6	8
Paid Baron's clerk . . . . .	0	11	0
Searching præcipe and giving notice of bail . . . . .	0	3	4
Paid for Master's allocater . . . . .	0	4	0
Fee thereon . . . . .	0	3	4
Paid filing bail piece . . . . .	0	4	4
Fee thereon . . . . .	0	6	8
Notice of bail . . . . .	0	4	0
Searching for declaration . . . . .	0	3	4
Letters, &c. . . . .	0	4	0

## JUSTIFICATION.

Copy notice of exception . . . . .	0	1	0
Notice of justification . . . . .	0	4	0
Affidavit thereof . . . . .	0	6	0
Paid filing . . . . .	0	1	0
Instructions to counsel to move to justify . . . . .	0	3	4
Fee to him . . . . .	0	10	6
Attending him . . . . .	0	3	4
Attending Court bail justified . . . . .	0	6	8
Attending to bespeak bail piece in Court . . . . .	0	3	4
Paid bag bearer . . . . .	0	1	0
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	4	0

ADDING BAIL.

	£	s.	d.
Instructions to put in added bail . . .	0	3	4
Attending the bail to Baron's chambers . . .	0	6	8
Paid Baron's clerk . . .	0	4	0
Notice of justification . . .	0	4	0
Affidavit thereof . . .	0	6	0

*Justification as above.*

IN COUNTRY.

Instructions and warrant to defend . . .	0	6	8
Paid expenses of bail bond . . .	1	1	0
Attending sheriff for extract of writ, and paid . . .	0	4	4
Special bail piece and fee . . .	0	4	0
Attending a commissioner with bail . . .	0	3	4
Paid commissioner's fee . . .	0	2	0
Affidavit of acknowledgment . . .	0	6	0
Affidavit of justification . . .	0	7	0
Copy of affidavit and bail piece to keep . . .	0	3	0
Paid Baron for allowance . . .	0	11	0
Attending for same . . .	0	3	4
Paid filazer . . .	0	4	4
Paid master for allocatur . . .	0	4	0
Attending for same . . .	0	3	4
Fee on filing bail piece, affidavit . . .	0	6	8
Searching præcipe and giving notice . . .	0	3	4
Letters, &c. . .	0	4	0

DISCONTINUANCE.

*Costs as before.*

Copy rule to discontinue . . .	0	1	0
Searching if rule given . . .	0	3	4



*Defendant's Costs.*

	£	s.	d.
Paid for office copy rule	0	2	8
Drawing bill of costs and copy	0	4	0
Attending taxing	0	6	8
Pay taxing	0	2	0
Interest acc.	0	4	0

GENERAL ISSUE, SETTLE OF SET-OFF, AND MONEY  
INTO COURT.*Appearance &c seems paid as before.*

Searching declaration	0	3	4
Pay for same, per rule	0	0	4
Office copy, per rule	0	0	4
Term fee (or mortgage & distance)	0	18	0
Insurance	0	0	6

## SUBSEQUENT TERM.

Searching if rule is not given	0	3	4
Pay for summons &c rule	0	2	0
Law and service	0	3	0
Attending	0	3	4
Bill for order	0	2	0
Copy and service	0	3	0
Instructions for plea	0	6	8
Drawing and agreeing general issue	0	2	8
Paid entering	0	2	0
Drawing notice of trial into eight	0	8	0
Copy to serve	0	2	8
Copy to give to court	0	2	8
Attending court &c with and ex-	0	6	8
Pay to move to pay money	0	10	6
	0	3	4
	0	10	6

*Defendant's Costs.*

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	£	s.	d.
Attending him . . . . .	0	3	4
Paid for rule . . . . .	0	5	4
Copy and service . . . . .	0	5	0
Attending to pay money into Court . . . . .	0	6	8
Paid into Court . . . . .			
Term fee . . . . .	0	18	0

## ON SPECIAL PLEADINGS AND TRIAL.—COUNTRY

## CAUSE.

Instructions for plea . . . . .	0	6	8
Drawing same, folio twenty . . . . .	1	0	0
Fee to pleader to settle same . . . . .	0	15	0
Attending . . . . .	0	3	4
Copy to deliver . . . . .	0	6	8
Close copy . . . . .	0	6	8
Paid entering . . . . .	0	6	8
Fee to counsel to sign . . . . .	0	10	6
Attending him . . . . .	0	3	4
Drawing short abstract of pleas . . . . .	0	3	4
Paid for summons to plead several matters, copy and service . . . . .	0	5	0
Attending for order . . . . .	0	3	4
Paid for same copy and service . . . . .	0	5	0
Attending to draw up rule . . . . .	0	3	4
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	5	0
Rule to reply (if given) . . . . .	0	1	6
Searching for and demanding replication . . . . .	0	8	8
Copy replication, folio twenty . . . . .	0	6	8
Instructions for rejoinder . . . . .	0	6	8
Drawing same, folio ten . . . . .	0	10	0
Paid pleader to settle same . . . . .	0	7	6
Attending . . . . .	0	3	4
Copy to deliver . . . . .	0	3	4

*Defendant's Costs.*

	£	s.	d.
Paid for office copy rule . . . . .	0	2	8
Drawing bill of costs and copy . . . . .	0	4	0
Attending taxing . . . . .	0	6	8
Paid taxing . . . . .	0	2	0
Letters, &c. . . . .	0	4	0

GENERAL ISSUE, NOTICE OF SET-OFF, AND MONEY  
INTO COURT.

*Appearance or special bail as before.*

Searching declaration . . . . .	0	3	4
Paid for same, <i>per folio</i> . . . . .	0	0	4
Close copy, <i>per folio</i> . . . . .	0	0	4
Term fee ( <i>or according to distance</i> ) . . . . .	0	18	0
Imparance . . . . .	0	0	6

## SUBSEQUENT TERM.

Searching if rule to plead given . . . . .	0	3	4
Paid for summons for time . . . . .	0	2	0
Copy and service . . . . .	0	3	0
Attending . . . . .	0	3	4
Paid for order . . . . .	0	2	0
Copy and service . . . . .	0	3	0
Instructions for plea . . . . .	0	6	8
Drawing and engrossing general issue . . . . .	0	2	8
Paid entering . . . . .	0	2	0
Drawing notice of set-off, folio eight . . . . .	0	8	0
Copy to serve . . . . .	0	2	8
Copy to give in evidence . . . . .	0	2	8
Attending counsel's clerk therewith and ex- amining same . . . . .	0	6	8
Paid him for service . . . . .	0	10	6
Instructions to counsel to move to pay money into Court . . . . .	0	3	4
Fee to him . . . . .	0	10	6

*Defendant's Costs.*

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	£	s.	d.
Attending him . . . . .	0	3	4
Paid for rule . . . . .	0	5	4
Copy and service . . . . .	0	5	0
Attending to pay money into Court . . . . .	0	6	8
Paid into Court . . . . .			
Term fee . . . . .	0	18	0

## ON SPECIAL PLEADINGS AND TRIAL.—COUNTRY

## CAUSE.

Instructions for plea . . . . .	0	6	8
Drawing same, folio twenty . . . . .	1	0	0
Fee to pleader to settle same . . . . .	0	15	0
Attending . . . . .	0	3	4
Copy to deliver . . . . .	0	6	8
Close copy . . . . .	0	6	8
Paid entering . . . . .	0	6	8
Fee to counsel to sign . . . . .	0	10	6
Attending him . . . . .	0	3	4
Drawing short abstract of pleas . . . . .	0	3	4
Paid for summons to plead several matters, copy and service . . . . .	0	5	0
Attending for order . . . . .	0	3	4
Paid for same copy and service . . . . .	0	5	0
Attending to draw up rule . . . . .	0	3	4
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	5	0
Rule to reply (if given) . . . . .	0	1	6
Searching for and demanding replication . . . . .	0	8	8
Copy replication, folio twenty . . . . .	0	6	8
Instructions for rejoinder . . . . .	0	6	8
Drawing same, folio ten . . . . .	0	10	0
Paid pleader to settle same . . . . .	0	7	6
Attending . . . . .	0	3	4
Copy to deliver . . . . .	0	3	4

	£	s.	d.
Close copy . . . . .	0	3	4
Paid entering . . . . .	0	3	4
Fee counsel to sign . . . . .	0	10	6
Attending him . . . . .	0	3	4
Copy issue, folio seventy-two . . . . .	1	4	0
Copy notice of trial . . . . .	0	1	0
Subpoena for witnesses . . . . .	0	7	0
Copy and service on witness . . . . .	0	5	0
Paid conduct money . . . . .	0	1	0
Letter to agent to subpoena witness at a distance . . . . .	0	3	6
Paid him for service and conduct money . . . . .	0	6	0
Paid him returning subpoena, and distringas . . . . .	0	5	4
Instructions for brief . . . . .	0	13	4
Drawing brief, twelve sheets . . . . .	4	0	0
Two copies for counsel . . . . .	4	0	0
Fee to senior counsel . . . . .	5	7	6
Attending him . . . . .	0	6	8
Fee to junior counsel . . . . .	4	6	6
Attending him . . . . .	0	6	8
Travelling expenses, twenty miles . . . . .	1	5	0
Attending trial three days, if only one cause . . . . .	6	6	0
<i>If more than one cause see before.</i>			
Paid Court fees as sworn to . . . . .	1	15	0
Paid witnesses' expenses . . . . .			
Term fee . . . . .	0	18	0

## IF VERDICT FOR DEFENDANT OR NONSUIT.

Attending associate for postea . . . . .	0	3	4
Returning and filing same . . . . .	0	4	4
Paid signing judgment . . . . .	0	4	8
Drawing judgment . . . . .	0	3	4
Attending to sign same . . . . .	0	3	4
Entering proceedings on paper, folio eighty . . . . .	1	6	8
Entering on roll, folio eleven . . . . .	0	3	8

*Defendant's Costs.*

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	£	s.	d.
Paid for roll . . . . .	0	1	0
Paid usher's clerk and docket . . . . .	0	3	0
Drawing and engrossing affidavit of increase, folio ten . . . . .	0	10	0
Paid two oaths . . . . .	0	2	0
Filing same and attending . . . . .	0	4	4
Paid for office copy ( <i>if sworn in the country</i> ) . . . . .	0	6	8
Copy for plaintiff's attorney . . . . .	0	3	4
Drawing bill of costs and copy . . . . .	0	10	0
Copy for plaintiff's attorney . . . . .	0	5	0
Notice of taxing . . . . .	0	4	0
Attending taxing . . . . .	0	6	8
Paid the Master . . . . .	0	5	0
Execution . . . . .	0	7	0
Returning, filing, and testatum . . . . .	0	10	6
Term fee . . . . .	0	18	0

ON TRIAL.—TOWN CAUSE.

Searching if cause set down . . . . .	0	3	4
Attending Court each day in term . . . . .	0	13	4
Attending Court when cause tried . . . . .	1	1	0
If all day . . . . .	2	2	0
Term fee . . . . .	0	13	0

*Other charges the same as before.*

*N.B. Retainer and consultation fees allowed according to the discretion of the master.*

NON PROS FOR NOT DECLARING.

*Appearance or Bail as before.*

Paid for rule to declare . . . . .	0	1	6
Demanding declaration . . . . .	0	4	0
Attending summons for time to declare and copy order . . . . .	0	4	4

*Defendant's Costs.*

	£	s.	d.
Paid signing judgment . . . . .	0	4	8
Drawing judgment . . . . .	0	3	4
Attending to sign same . . . . .	0	3	4
Paid ushers, clerk, and docket . . . . .	0	3	0
Entering proceedings on paper, folio twenty-five	0	8	4
Entering same on roll . . . . .	0	8	4
Paid for two rolls . . . . .	0	2	0
Drawing bill of costs and copy . . . . .	0	4	0
Copy for plaintiff's attorney . . . . .	0	2	0
Notice of taxing . . . . .	0	4	0
Attending taxing . . . . .	0	6	8
Paid . . . . .	0	3	0
Execution . . . . .	0	7	0
Returning filing and testatum . . . . .	0	10	6
Term fee . . . . .	0	18	0

## COSTS OF THE DAY.

Drawing and engrossing affidavit to ground motion, folio five, and paid oath . . . . .	0	6	0
Copy for counsel . . . . .	0	2	0
Instructions to counsel to move for costs of the day . . . . .	0	3	4
Paid fee to him . . . . .	0	10	6
Attending him . . . . .	0	3	4
Attending court . . . . .	0	3	4
Paid filing affidavit . . . . .	0	1	0
Attending . . . . .	0	3	4
Paid for office copy . . . . .	0	4	0
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	5	0
Drawing bill of costs and copy . . . . .	0	4	0
Copy for plaintiff's attorney . . . . .	0	2	0
Drawing and engrossing affidavit of increase, folio six . . . . .	0	6	0

*Defendant's Costs.*

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	£	s.	d.
Paid oath . . . . .	0	1	0
Paid filing affidavit and attending . . . . .	0	4	4
Paid office copy . . . . .	0	4	0
Copy for plaintiff's attorney . . . . .	0	2	0
Notice of taxing . . . . .	0	4	0
Attending taxing . . . . .	0	6	0
Paid . . . . .	0	2	0
Term fee . . . . .	0	18	0

## JUDGMENT AS IN CASE OF A NONSUIT.

Notice of motion for judgment . . . . .	0	4	0
Affidavit of service and issue joined, folio five . . . . .	0	6	0
Paid filing same and attending . . . . .	0	4	4
Paid for office copy . . . . .	0	3	4
Instructions to counsel to move . . . . .	0	3	4
Fee to him . . . . .	0	10	6
Attending . . . . .	0	3	4
Attending Court, rule to show cause granted . . . . .	0	3	4
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	5	0
Affidavit thereof . . . . .	0	6	0
Searching for affidavits in answer . . . . .	0	3	4
Copy affidavit, folio six . . . . .	0	2	0
Briefing same for counsel . . . . .	0	2	0
Instructions to him to make rule absolute . . . . .	0	6	8
Paid fee to counsel . . . . .	1	3	6
Attending him . . . . .	0	3	4
Attending Court, rule discharged on peremptory undertaking . . . . .	0	6	8
Copy rule . . . . .	0	1	0
On attending Court when rule made absolute . . . . .	0	6	8
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	5	0



	£	s.	d.
<i>Costs of judgment as before.</i>			
Term fee . . . . .	0	18	0

## RENDERING IN DISCHARGE OF BAIL.

Instructions to render defendant . . . . .	0	6	8
Attending, searching bail piece, and to appoint bag-bearer to attend therewith, and paid . . . . .	0	10	0
Paid bag-bearer . . . . .	0	1	0
Copy bail piece on parchment for commitment . . . . .	0	1	0
Attending on render . . . . .	0	6	8
Paid for commitment . . . . .	0	11	0
Paid tipstaff . . . . .	0	10	6
Attending defendant to the Fleet, and for certificate of his being rendered . . . . .	0	6	8
Notice thereof . . . . .	0	4	0
Fee on render . . . . .	0	6	8
Letters, &c. . . . .	0	2	0

*If rendered in the country.*

Instructions to render defendant to the county gaol . . . . .	0	6	8
Attending to obtain order . . . . .	0	3	4
Paid for same . . . . .	0	4	0
Copy and service on plaintiff's attorney . . . . .	0	4	0
Attending to lodge same with the gaoler . . . . .	0	5	0

*If at a distance charge accordingly.*

Notice of render copy and service . . . . .	0	5	0
Letters, &c. . . . .	0	5	0

SUPRESEDEAS FOR NOT DECLARING IN DUE TIME  
AGAINST A PRISONER.

Warrant and instructions to defend . . . . .	0	6	8
Summons to show cause why defendant should not to be discharged . . . . .	0	2	0

*Defendant's Costs.*

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	£	s.	d
Copy and service . . . . .	0	3	0
Attending . . . . .	0	3	4
The like on second summons . . . . .	0	8	4
If order opposed attending summons . . . . .	0	6	8
Affidavit of service of summons and attending same . . . . .	0	6	0
Paid for order . . . . .	0	2	0
Copy and service . . . . .	0	3	0
Paid filing order . . . . .	0	1	0
Paid entering appearance and fee . . . . .	0	6	0
Supersedeas and fee . . . . .	0	12	10
Letters, &c. . . . .	0	4	0

HABEAS CORPUS TO REMOVE A DEFENDANT FROM  
COUNTRY GAOL TO THE FLEET.

Attending taking instructions . . . . .	0	3	4
Habeas corpus and fee . . . . .	0	15	0
Paid Baron for allowance . . . . .	0	4	0
Attending to get same allowed . . . . .	0	3	4
Paid returning . . . . .	0	16	4
Attending to get same returned . . . . .	0	3	4
Attending to get officer to bring up defendant and attending him to Baron's chambers to have him committed . . . . .	0	6	8
Paid for commitment . . . . .	0	11	0
Paid conduct money . . . . .			
Attending to appoint tipstaff to attend . . . . .	0	3	4
Paid tipstaff . . . . .	0	10	6
Letters, &c. . . . .	0	4	0

ON OBTAINING DEFENDANT'S DISCHARGE BY SUPER-  
SEDEAS AFTER CERTIFICATE.

Attending taking instructions . . . . .	0	6	8
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	£	s.	d.
Drawing affidavit to support application, folio five	0	5	0
Attending commissioner to the defendant to get him sworn	0	6	8
Paid oath and commissioner's attendance	0	7	8
Paid for summons for defendant's discharge	0	2	0
Copy and service	0	3	0
Attending summons	0	3	4
Paid for order	0	4	0
Copy and service	0	3	0
Copy to keep	0	1	0
Filing order	0	1	0
Supersedeas and fee	0	12	10
Attending filing order, affidavits, &c.	0	3	4
Letters, &c.	0	4	0

**EJECTMENT.**

Instructions and warrant to defend	0	6	8
Searching, if ejectment moved	0	3	4
Entering appearance and fee	0	6	0
Copy declaration, folio eight	0	2	8
Instructions for plea	0	6	8
General issue	0	2	8
Paid entering	0	2	0
Copy issue, folio ten	0	3	4
Copy notice of trial	0	1	0

*Same charges on trial as before.***FOR LANDLORD TO DEFEND.**

Instructions to counsel to move for landlord to defend	0	3	4
Fee to him	0	10	6
Attending him	0	3	4
Attending Court	0	3	4

*Defendant's Costs.*

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	£	s.	d.
Paid for rule . . . . .	0	5	4
Copy and service . . . . .	0	5	0
Appearance for landlord . . . . .	0	6	0

ON SHOWING CAUSE AGAINST MOTION.

Attending for office copy rule to show cause .	0	3	4
Paid for same, <i>according to length.</i> .			
Close copy . . . . .	0	2	0
Paid for office copy, affidavit on which rule granted, per folio . . . . .	0	0	8
Close copy, per folio . . . . .	0	0	4
Instructions for affidavit in answer . . . . .	0	6	8
Drawing and engrossing same, if special, per folio . . . . .	0	1	4
Briefing affidavits for counsel, per folio . . . . .	0	0	4
Instructions to counsel to show cause . . . . .	0	6	8
Fee to him . . . . .			
Attending him . . . . .	0	6	8
Attending Court, each day . . . . .	0	6	8
When heard . . . . .	0	13	4

*Other charges according to circumstances.*

## MISCELLANEOUS BILLS.

## CERTIORARI TO REMOVE A PLAINT.

	£	s.	d.
Instructions and warrant . . . . .	0	6	8
Drawing and engrossing certiorari to remove <i>plaint, according to length, per folio</i> . . . . .	0	0	6
Postage of same to the country . . . . .	0	2	0
Attending to lodge same, and afterwards for return . . . . .	0	6	8
Paid for return . . . . .			
Carriage of parcel with writ, and proceedings to town . . . . .	0	4	0
Copy thereof, <i>according to length.</i>			
Attending to file certiorari and return . . . . .	0	4	4
Letters, &c. . . . .	0	4	0

## SUING BY GUARDIAN.

Instructions and warrant to sue . . . . .	0	6	8
Writ of capias . . . . .	0	12	0
Copy and service . . . . .	0	5	0
Drawing and engrossing petition to assign a guardian . . . . .	0	5	0
Drawing and engrossing affidavit of guardian's acceptance . . . . .	0	5	0
Paid oath . . . . .	0	1	0
Attending to obtain Baron's order . . . . .	0	3	4
Paid for same . . . . .			

*Miscellaneous Bills.*

65

	£	s.	d.
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	4	0

**EXAMINATION OF WITNESSES ON INTERROGATORIES.**

Instructions . . . . .	0	6	8
Drawing and engrossing affidavit to ground motion, folio ten . . . . .	0	10	0
Paid oath . . . . .	0	1	0
Paid filing same and attending . . . . .	0	4	4
Paid for office copy . . . . .	0	6	8
Brief same for counsel . . . . .	0	3	4
Instructions to counsel . . . . .	0	3	4
Fee to him . . . . .	0	10	6
Attending him . . . . .	0	3	4
Attending Court, rule to show cause granted	0	3	4
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	5	0
Affidavit thereof . . . . .	0	6	0
Copy affidavit in answer, folio ten . . . . .	0	3	4
Briefing same . . . . .	0	3	4
Instructions to counsel to make rule absolute	0	6	8
Fee to him . . . . .	1	3	6
Attending him . . . . .	0	3	4
Attending Court . . . . .	0	6	8
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	5	0
Instructions for interrogatories . . . . .	0	6	8
Drawing same, folio forty . . . . .	2	0	0
Fee to counsel to sign . . . . .	2	4	6
Attending . . . . .	0	3	4
Engrossing same . . . . .	1	0	0
Paid for parchment . . . . .	0	5	0
Copy for opposite attorney . . . . .	0	13	4
Notice of examination, copy, and service	0	5	0

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	£	s.	d.
Attending witness to Examiner's, or according to length of time detained . . .	0	6	8
Attending for depositions . . .	0	3	4
Paid for same . . . . .	2	0	0
Copy thereof . . . . .	0	13	4

## ISSUE DIRECTED.

Perusing pleadings and decree in equity, and taking instructions to prepare issue . . .	0	13	4
Drawing issue, folio twenty . . .	1	0	0
Copy for counsel . . . . .	0	6	8
Copy decree to accompany same . . .	0	10	0
Fee to counsel to settle . . . . .	1	3	6
Attending him . . . . .	0	6	8
Copy for opposite attorney . . . . .	0	6	8
Attending him therewith, and afterwards settling same . . . . .	0	6	8
Engrossing on parchment . . . . .	0	10	0
Paid parchment . . . . .	0	3	0
Notice of trial . . . . .	0	4	0

*Other charges as before.*

## PAUPER.

Drawing and engrossing petition to sue . . .	0	6	8
Drawing and engrossing affidavit of pauper's circumstances . . . . .	0	6	0
Attending counsel to certify . . . . .	0	3	4
Attending Baron for order . . . . .	0	3	4
Paid for same . . . . .	0	5	0
Copy and service . . . . .	0	3	0

TAXING AN ATTORNEY'S BILL OF COSTS.

	£	s.	d.
Attending perusing bill of costs, and taking instructions to tax same . . . . .	0	6	8
Summons to show cause why bill of costs should not be taxed . . . . .	0	2	0
Copy and service . . . . .	0	3	0
Attending . . . . .	0	3	4
<i>If opposed</i> . . . . .	0	6	8
Paid for order . . . . .	0	2	0
Copy and service . . . . .	0	3	0
Attending for appointment to tax . . . . .	0	3	4
Copy and service . . . . .	0	4	0
Copy bill of costs for use on taxation . . . . .			
Attending taxing when it was required that certain items should be verified by affidavit . . . . .	0	6	8
Attending for office copy affidavit . . . . .	0	3	4
Paid for same, folio ten . . . . .	0	6	8
Copy thereof for the country . . . . .	0	3	4
Attending taxing again . . . . .	0	6	8
<i>Other charges according to circumstances.</i>			
Above one-sixth being taken off instructions to counsel, to make Baron's order a rule of Court . . . . .	0	3	4
Fee to counsel therewith . . . . .	0	10	6
Attending him . . . . .	0	3	4
Attending Court . . . . .	0	3	4
Paid for rule . . . . .	0	5	4
Copy and service . . . . .	0	5	0
Instructions to counsel to move, to refer it to the Master, to tax the bill of costs on taxation . . . . .	0	3	4
Fee to him . . . . .	0	10	6
Attending him . . . . .	0	3	4



	£	s.	d.
Affidavit to ground motion . . . . .	0	6	0
Paid filing and attending . . . . .	0	4	4
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	5	0
Attending for master's appointment . . . . .	0	3	4
Copy and service . . . . .	0	4	0
Bill of costs and copy . . . . .	0	4	0
Copy for opposite attorney . . . . .	0	2	0
Attending taxing . . . . .	0	6	8
Paid taxing . . . . .	0	2	0
Copy and service of rule, with master's allocatur . . . . .	0	5	0
Letter of attorney to demand costs, and demanding same ( <i>allowed conditionally</i> ) . . . . .	3	3	0
Letters, &c. . . . .	0	4	0

MOTION TO MAKE ORDER OF NISI PRIUS A RULE OF  
COURT, AND TO SET ASIDE AWARD.

Instructions to counsel to make order of nisi prius a rule of Court . . . . .	0	3	4
Fee to him . . . . .	0	10	6
Attending him . . . . .	0	3	4
Attending Court . . . . .	0	3	4
Paid for rule, folio twelve . . . . .	0	16	0
Copy and service, ditto . . . . .	0	4	0
Instructions for affidavit to set aside award . . . . .	0	6	8
Drawing and engrossing affidavit, folio twenty . . . . .	1	6	8
Attending to be sworn, and paid . . . . .	0	4	4
Paid filing and attending . . . . .	0	4	4
Office copy . . . . .	0	13	4
Brief same, for counsel . . . . .	0	6	8
Instructions to counsel therewith . . . . .	0	3	4
Fee to him . . . . .	1	3	6
Attending him . . . . .	0	3	4

*Miscellaneous Bills.*

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	£	s.	d.
Attending Court, rule to show cause granted	0	3	4
Paid for rule, folio ten	0	13	4
Copy and service	0	5	0
Affidavit thereof	0	6	0
Copy affidavit in answer, folio ten	0	3	4
Brief same, for counsel	0	3	4
Instructions to counsel to make rule absolute	0	6	8
Fee to him	2	4	6
Attending	0	3	4
Attending Court; did not come on	0	6	8
The like	0	6	8
The like, when rule discharged with costs	0	13	4
Copy bill of costs	0	4	0
Attending taxing	0	6	8
Term fee	0	18	0

## BILL FOR THE OPPOSITE PARTY.

Copy rule, making order of nisi prius a rule of Court, folio twenty	0	6	8
Copy rule, to set aside award	0	2	0
Instructions for affidavit in answer	0	6	8
Drawing and engrossing same, folio ten	0	13	4
Attending defendant to be sworn, and paid	0	4	4
Copy for opposite party	0	3	4
Brief affidavits for counsel	0	13	4
Instructions to counsel to show cause	0	6	8
Fee to him	2	4	6
Attending him	0	3	4
Attending Court; motion did not come on	0	6	8
The like	0	6	8
The like, rule discharged with costs	0	13	4
Paid for rule	0	2	8
Copy and service	0	5	0
Drawing bill of costs and copy	0	6	0

	£	s.	d.
Copy for opposite attorney . . . . .	0	3	0
Appointment to tax . . . . .	0	4	0
Attending taxing . . . . .	0	6	8
Paid the master . . . . .	0	4	0
Letter of attorney to demand costs, and demanding same ( <i>allowed conditionally</i> ) . .	3	3	0
Costs not being paid, copy, and service of rule, with Master's allocatur . . . . .	0	5	0
Affidavit thereof, and of costs not being paid	0	6	0
Filing affidavit and attending . . . . .	0	4	4
Paid for office copy . . . . .	0	4	0
Instructions to counsel to move for attachment . . . . .	0	3	4
Fee to him . . . . .	1	3	6
Attending him . . . . .	0	3	4
Attending court rule granted . . . . .	0	6	8
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	5	0
Bill of costs and copy . . . . .	0	4	0
Appointment to tax . . . . .	0	3	0
Attending taxing . . . . .	0	6	8
Paid . . . . .	0	2	0
Attachment and fee . . . . .	0	12	0
Term fee . . . . .	0	18	0

## COMMON MOTIONS.

Drawing affidavit to ground motion and copy, folio ten . . . . .	0	10	0
Paid filing and attending . . . . .	0	4	4
Office copy . . . . .	0	6	8
Instructions to counsel to move . . . . .	0	3	4
Fee to him . . . . .	0	10	6
Attending . . . . .	0	3	4
Attending Court . . . . .	0	3	4

*Miscellaneous Bills.*

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	£	s.	d.
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	5	0
Searching for affidavit in answer . . . . .	0	3	4
Copy for counsel, folio ten . . . . .	0	3	4
Briefing affidavits for counsel . . . . .	0	6	8
Instructions to him to make rule absolute . . . . .	0	6	8
Fee to him . . . . .	1	3	6
Attending him . . . . .	0	3	4
Attending Court; motion did not come on . . . . .	0	6	8
The like, when rule absolute with costs . . . . .	0	6	8
Paid for rule . . . . .	0	2	8
Copy and service . . . . .	0	5	0
Drawing bill of costs and copy . . . . .	0	4	0
Copy for opposite party . . . . .	0	2	0
Appointment to tax . . . . .	0	4	0
Attending taxing . . . . .	0	6	8
Paid . . . . .	0	3	0
Letter of attorney to demand costs, &c. ( <i>conditionally</i> ) . . . . .	3	3	0
Term fee . . . . .	0	18	0
<i>Motion for attachment for non-payment as before.</i>			

GENERAL CHARGES IN CONVEYANCING ALLOWED ON  
TAXATION AS BETWEEN ATTORNEY AND CLIENT.

Instructions for abstract . . . . .	0	13	4
Drawing abstract, per sheet . . . . .	0	6	8
Fair copy thereof . . . . .	0	3	4
Copy for purchaser's solicitor . . . . .	0	3	4
Attending therewith, and several times thereon . . . . .	0	13	4
Attending purchaser's solicitor, examining abstract with deeds, per hour . . . . .	0	6	8
Perusing draft conveyance, per skin . . . . .	0	5	0
Making attested copies, per folio . . . . .	0	0	6
Examining engrossment, with draft, per skin . . . . .	0	3	4

## FOR PURCHASER OR MORTGAGEE.

	£	s.	d.
Instructions . . . . .	0	13	4
Perusing abstract, per three sheets . . . . .	0	6	8
Drawing conveyance, per folio . . . . .	0	1	0
Fair copy . . . . .	0	0	4
Engrossing . . . . .	0	0	8
Lease for a year . . . . .	1	0	0
Searching for judgments, per term . . . . .	0	0	8
Drawing memorials, per folio . . . . .	0	1	0

## COSTS OF PLAINTIFF IN ERROR, WRIT NON PROSSED.

Instructions for writ of error . . . . .	0	6	8
Præcipe for writ of error, and copy for the cursitor . . . . .	0	5	0
Paid for writ of error . . . . .			
Fee thereon . . . . .	0	6	8
Paid for Chief Baron's allocatur . . . . .	0	19	6
Attending to obtain same . . . . .	0	6	8
Notice of allowance, copy and service . . . . .	0	4	0
Paid Clerk of the Errors' for allowance . . . . .	0	6	8
Fee thereon . . . . .	0	6	8
Enrolling writ of error . . . . .	0	13	4
Paid filing it . . . . .	0	1	0
Copy writ of error, and service on defendant's attorney . . . . .	0	5	0
Term fee . . . . .	0	13	4
Letters and messengers . . . . .	0	8	0

## ENSUING TERM.

Attending Court when errors adjourned . . . . .	0	6	8
Attending Court when writ of error non prosced . . . . .	0	13	4
Copy rule for non pros . . . . .	0	2	0

*Miscellaneous Bills.*

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	£	s.	d.
Copy bill of costs . . . . .	0	5	0
Attending taxing . . . . .	0	18	4
Term fee . . . . .	0	18	4
Letters and messengers . . . . .	0	8	0

## ON ASSIGNING ERRORS.

Instructions for assignment of errors . . . . .	0	6	8
Drawing assignment, per folio . . . . .	0	1	0
Fee to counsel to settle and sign same . . . . .	1	3	6
Attending him . . . . .	0	3	4
Engrossing on parchment, per folio, for the master . . . . .	0	0	6
Paid parchment . . . . .	0	1	0
Copy to deliver, per folio . . . . .	0	0	4
Close copy, ditto . . . . .	0	0	4
Paid entering . . . . .	0	2	0
Searching for joinder in error . . . . .	0	3	4
Office copy joinder, per folio . . . . .	0	0	4
Close copy, ditto . . . . .	0	0	4
Briefing assignments, and joinder for counsel, per folio . . . . .	0	0	4
Instructions to counsel therewith . . . . .	0	6	8
Fee to counsel therewith . . . . .	0	10	6
Attending him . . . . .	0	8	4
<i>If argued, add</i>			
Drawing error book, per folio . . . . .	0	0	8
Making five fair copies for the judges, per folio . . . . .	0	0	4
Fair copy for counsel, per folio . . . . .	0	0	4
Engrossing transcript of record, per folio . . . . .	0	0	6
Paid Clerk of the Errors' examining same, per folio . . . . .	0	0	8
Attending him to get a day appointed . . . . .	0	3	4
Attending examination . . . . .	0	18	4

	£	s.	d.
Instructions to counsel to get a day for argument fixed . . . . .	0	3	4
Fee to counsel and clerk . . . . .	1	3	6
Attending him . . . . .	0	3	4
Attending Court when day fixed . . . . .	0	13	4
Instructions to counsel to mark the errors to be argued . . . . .	0	6	8
Fee to him . . . . .	1	3	6
Attending him . . . . .	0	3	4
Copy same on the copies delivered . . . . .	0	16	8
Attending the five judges with books . . . . .	0	16	8
Paid their clerks . . . . .	0	10	0
Attending, filing transcript, and paid . . . . .	0	4	4
Instructions for brief in error . . . . .	0	13	4
Drawing same, per sheet . . . . .	0	6	8
Copy for counsel, per sheet . . . . .	0	3	4
Fee to counsel therewith . . . . .	3	5	6
Attending him . . . . .	0	6	8
Attending to appoint consultation, ( <i>if necessary</i> ) . . . . .	0	3	4
Fee to counsel thereon . . . . .	1	3	6
Attending consultation . . . . .	0	13	4
<i>If more than one counsel, charge accordingly.</i>			
Attending Court of Error all day, when errors argued . . . . .	1	1	0
Paid Court fees . . . . .	0	13	0
Term fee . . . . .	0	13	4
Letters, messengers, &c. . . . .	0	8	0

## SUBSEQUENT TERM.

Attending Court on error day when judgment pronounced . . . . .	0	13	4
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## ON PUTTING IN SPECIAL BAIL IN ERROR.

	£	s.	d.
Drawing and engrossing recognizance of bail	0	18	4
Paid for parchment . . . . .	0	1	0
Fee thereon . . . . .	0	6	8
Attending at a Baron's chambers putting in bail . . . . .	0	18	4
Paid fees . . . . .			
Notice of bail, copy and service . . . . .	0	5	0
Copy notice of exception . . . . .	0	1	0
Notice of justification, copy and service . . . . .	0	5	0
Attending justification . . . . .	0	18	4
Paid fees . . . . .			
Paid the Clerk of the Rules, allowing recognizance . . . . .	0	6	8
Filing same, and justification . . . . .	0	1	0
Fee thereon . . . . .	0	6	8
Paid for rule for allowance . . . . .	0	2	8
Copy and service . . . . .	0	5	0

COSTS OF DEFENDANT IN ERROR ON NON PROS, AND  
MOTION FOR INTEREST.

Copy allowance of writ of error . . . . .	0	1	0
Instructions to defend . . . . .	0	6	8
Several attendances to search if writ of error allowed, and when returnable . . . . .	0	6	8
Office copy, writ of error, folio ten . . . . .	0	6	8
Close copy . . . . .	0	3	4
Office copy, record, per folio . . . . .	0	0	8
Close copy, per folio . . . . .	0	0	4
Term fee . . . . .	0	13	4
Letters and messengers . . . . .	0	8	0

## SUBSEQUENT TERM.

Searching if error set down in the paper . . . . .	0	6	8
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	£	s.	d.
Attending to get same set down . . . . .	0	6	8
Notice of motion for interest . . . . .	0	4	0
Affidavit of service thereof . . . . .	0	6	0
Paid filing same . . . . .	0	1	0
Brief to counsel to move to non pros . . . . .	0	6	8
Fee to counsel . . . . .	0	10	6
Attending him . . . . .	0	6	8
Attending Court, errors adjointed . . . . .	0	6	8
Attending Court again, error non prossed . . . . .	0	13	4
Paid for rule . . . . .	0	5	4
Copy and service . . . . .	0	5	0
Brief to counsel to move for interest . . . . .	0	3	4
Fee to him . . . . .	0	10	6
Attending him . . . . .	0	3	4
Copy, notice of motion to annex to brief . . . . .	0	1	0
Briefing affidavit of service . . . . .	0	2	6
Attending Court, errors adjourned . . . . .	0	6	8
Attending Court, order made . . . . .	0	6	8
Paid ushers and bag bearer . . . . .	0	9	8
Paid for rule for interest . . . . .	0	5	4
Copy and service . . . . .	0	5	0
Drawing judgment of non pros, and entering on roll . . . . .	0	13	4
Drawing bill of costs and copy . . . . .	0	10	0
Notice of taxing . . . . .	0	4	0
Attending taxing . . . . .	0	6	8
Paid . . . . .	0	5	0
Special execution . . . . .	1	10	0
Term fee . . . . .	0	13	4
Letters and messengers . . . . .	0	8	0

## ON ASSIGNMENT OF ERRORS.

Searching for assignment of errors . . . . .	0	3	4
Office copy assignment, per folio . . . . .	0	0	4

*Miscellaneous Bills.*

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	£	s.	d.
Close copy ditto . . . . .	0	0	4
Instructions for joinder . . . . .	0	6	8
Drawing same, per folio . . . . .	0	1	0
Fee to counsel to settle and sign . . . . .	1	3	6
Attending him . . . . .	0	3	4
Copy on parchment for the Clerk of the Errors, per folio . . . . .	0	0	6
Copy to deliver, <i>per folio</i> . . . . .	0	0	4
Close copy, ditto . . . . .	0	0	4
Paid entering . . . . .	0	2	0
Brief assignment and joinder for counsel, per folio . . . . .	0	0	4
Instructions to counsel therewith . . . . .	0	6	8
Fee to him to move to affirm the judgment . . . . .	1	3	6
Attending him . . . . .	0	3	4

*The charges in arguing errors as before.*

ON BAIL BEING PUT IN.

Searching for special bail . . . . .	0	3	4
Copy recognizance of bail . . . . .	0	5	0
Inquiring after the bail . . . . .	0	13	4
Notice of exception, copy and service, with a consent to a justification at chambers . . . . .	0	5	0
Copy notice of justification . . . . .	0	1	0
Attending upon bail justified . . . . .	0	13	4
Copy rule for allowance . . . . .	0	2	0

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*N.B.*—It is not within the scope of this work to give the agency charges ; but a reference to the very copious and useful Table of Costs, published by Mr. Palmer, will show the proportion generally allowed to Agents.



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